

SESSION OF 2018

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2581

As Amended by House Committee of the Whole

Brief*

HB 2581, as amended, would amend law related to the crime of giving a false alarm. Under current law, this offense applies to transmitting a false fire alarm to a fire department, knowing there is no reasonable ground for believing such fire exists, and to making a call in any manner for emergency service assistance including police, fire, medical, or other emergency service, knowing there is no reasonable ground for believing such assistance is needed.

The offense would be renamed “making an unlawful request for emergency service assistance” and its definition would be amended to include transmitting or communicating false or misleading information in any manner to request emergency service assistance, including law enforcement, fire, medical, or other emergency service knowing at the time there is no reasonable ground for believing assistance is needed.

Under current law, the crime is a Class A nonperson misdemeanor but a severity level 10 nonperson felony if an electronic device or software is used to conceal the person’s identity when making the transmission or call, and a severity level 7 nonperson felony when the request includes false information that violent criminal activity or immediate threat to a person’s life or safety, or the public safety, is taking place.

The crime would continue be a Class A nonperson misdemeanor, except including false information that violent criminal activity or immediate threat to a person’s life or safety

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

has or is taking place would continue to be a severity level 7, nonperson felony, except in the following circumstances that would be added by the bill:

- If bodily harm results from the response by emergency services, the offense would be a severity level 6, person felony;
- Great bodily harm resulting from the response by emergency services would be a severity level 4, person felony; and
- Death resulting from the response by emergency services would be a severity level 1, person felony.

The bill would clarify use of an electronic device or software to alter, conceal, or disguise the source of the request or the identify of the person making such request would continue to be a level 10, nonperson felony.

The bill would provide that it would not be a defense that the person who suffered bodily harm, great bodily harm, or death contributed, or others contributed, to such person's harm or death. Persons who make an unlawful request for emergency service assistance could also be prosecuted for any form of homicide.

Background

HB 2581 was introduced by Representatives Carmichael, Markley, and Whitmer.

In the House Committee on Corrections and Juvenile Justice hearing, proponent testimony was presented by Representatives Carmichael, Markley, and Whitmer; a representative of the Kansas Association of Chiefs of Police, Kansas Sheriffs' Association, and Kansas Peace Officers Association; representatives of the Johnson County Sheriff's Office, the Kansas County and District Attorneys Association,

and the Fraternal Order of Police (Kansas Lodge); and private citizens. The proponents stated the bill was introduced in response to the increase of “swatting” incidents.

Written-only proponent testimony was provided by the League of Kansas Municipalities. No other testimony was provided.

The House Committee on Corrections and Juvenile Justice amended the bill to raise the penalty for death occurring as a result of response by emergency services from a severity level 2 to a severity level 1, person felony.

The House Committee of the Whole amended the bill to clarify that such request of emergency service assistance would not be limited to 911 calls, and to include requests including false information that an immediate threat to public safety exists. The Committee also amended the bill to add a whereas clause stating amendments made by the bill would be known as the Andrew T. Finch Act. An additional technical revision was also made.

According to the fiscal note prepared by the Division of Budget on the bill, as introduced, the Office of Judicial Administration (OJA) estimates there is a potential for increased litigation with a corresponding fiscal effect on the operations of the court system. A fiscal effect could not be determined. However, OJA estimated any effect would not require additional resources.

The Kansas Sentencing Commission estimated the bill could have an effect on prison admission and bed space; however, the effect could not be estimated. The Kansas Association of Counties and the League of Kansas Municipalities indicate the bill would not have a fiscal effect on counties or cities. Any fiscal effect associated with the bill is not reflected in *The FY 2019 Governor’s Budget Report*.