

March 11, 2014

Testimony Regarding HB 2442
Submitted by Christopher Mann
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Office of the Kansas Securities Commissioner
Member KCDAA

Honorable Chairman King and Members of the Senate Judiciary Committee:

Thank you for the opportunity to address the Committee in support of House Bill 2442 as passed by the House in a substitute bill. I worked with the Kansas County and District Attorney's Association (KCDAA) on drafting the original bill while I was prosecuting at the Wyandotte County District Attorney's Office. I am presenting testimony on behalf of KCDAA.

K.S.A 8-1568 (Flee and Elude) currently provides that a person who eludes a police officer while in a motor vehicle is guilty of a class B misdemeanor on the first offense, class A misdemeanor on the second offense and a severity level 9 person felony on the third or subsequent offense.

Penalties are raised if the person does one of the following while being pursued: (1) Fails to stop for a police road block; (2) drives around tire deflating devices placed by a police officer; (3) engages in reckless driving as defined by K.S.A. 8-1566 and amendments thereto; (4) is involved in any motor vehicle accident or intentionally causes damage to property; (5) commits five or more moving violations; or (6) is attempting to elude capture for the commission of any felony. If one of these violations exist, all occurrences are a severity level 9 person felony.

What this means is that offenders face as little as 5 months for a first time offense involving one of the acts listed above (severity level 9 grid box sentence). It also means the maximum standard penalty for someone who is a repeat offender will never rise above 17 months in prison.

To put this in perspective, a survey of surrounding state's shows that the for felony eluding (without injury or death) there is an average range from a minimum of 1 year in custody to a maximum of 6 years (Average maximum sentence is 4.7 years). (See attached collection of surrounding state's penalties)

Current Kansas penalties are less than half of the average penalties of surrounding states, setting up a veritable safe haven in Kansas for those who would run from the police. The penalties for this dangerous crime in Kansas are the same as shoplifting for a third time and are less than forging a check. Yet, from 2000 through 2010 KDOT statistics show that eluding has accounted for 2361 accidents, 819 injuries and 34 fatalities.

This crime is so dangerous that police departments nationwide have implemented procedures to try and mitigate the risk to the innocent motoring public. However, even those policies are not going to keep a person from running if they know they won't face significant consequences. These policies do nothing to keep the criminals who choose to commit this violent crime from doing it again, especially since they will be on the street at most in a matter of months. This revolving door penalty allows criminals to take the lives of innocent citizens in our state into their hands again and again.

Running the sentences of repeat offenders consecutive to the other crimes of which they are convicted is a sensible step in the right direction. Each time this legislature has taken steps to deter this criminal activity, lives of Kansas citizens have been saved. These criminals have proven that lesser punishments are not sufficient and that they have no regard for the safety of their fellow citizens, so removing their ability to commit this crime again is the only answer left.

I urge this Committee to advance House Bill 2442 as passed by the House in a substitute bill to help law enforcement and prosecutors hold these dangerous criminals accountable.

Respectfully,

Christopher Mann
Member KCDAA