

SESSION OF 2008

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2707**

As Agreed to May 3, 2008

Brief*

HB 2707 would expand the current law regarding theft of property to include a leased, rented or loaner motor vehicle that had not been returned after notice has been given to the person who leased, rented or was loaned the vehicle. A three day limit starts to run upon receipt or refusal of the demand letter for return of the vehicle. The lessor would be allowed to notify the local law enforcement agency which would be able to enter any such motor vehicle into any appropriate state and local computer system listing stolen motor vehicles.

The penalty for a first or second conviction under the above provisions would be a class A nonperson misdemeanor. Upon a first conviction, the person would be sentenced to not less than 30 days and up to a year's imprisonment and a fine of \$100. A second conviction would bring a sentence of not less than 60 days nor more than a year's imprisonment and a fine of \$200. A third or subsequent conviction would be a level 9, nonperson felony which would be presumed imprisonment.

Additional provisions of the bill would do the following:

- Authorize the court to place the offender who is sentenced to prison pursuant to the rule on a third or subsequent felony theft, burglary or drug violation convictions, or any combination of the three, in a state or any substance abuse treatment program established by the Kansas Department

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of Corrections (KDOC), for at least four months, to participate in an intensive substance abuse treatment program, if the offender's underlying sentence is more than four months long and the court has made the findings that substance abuse is the underlying factor in the commission of the crime, the state substance abuse facility is likely to be more effective than prison in reducing the risk of offender recidivism, and such a sentence would serve the community safety interests and promote offender reformation. An alternative option would be a non-prison sentence for a defendant who meets the prior mentioned requirements to participate in certain community-based drug treatment programs. Further, an offender sentenced to intensive substance abuse treatment could not be transferred to the Reception and Diagnostic Center;

- Add a provision that would create a rule in sentencing to make a fourth or subsequent conviction for felony theft a presumptive prison sentence;
- Provide that inmates designated to participate in intensive substance abuse treatment would have a presumption of minimum security status;
- Provide that offenders with a life sentence or an indeterminate sentence for an offense committed prior to July 1, 1993, who subsequently commit and are convicted of a crime after July 1, 1993 would remain on post incarceration supervision, which includes parole and post release supervision, for life, or the longest term of post incarceration supervision imposed for all crimes upon which sentence was imposed, or until discharged from supervision by the Kansas Parole Board;
- Authorize a court to retain jurisdiction to modify an offender's sentence to a less severe penalty after the successful completion of the intensive substance abuse treatment program. If the offender's term of imprisonment expires, the offender would be placed on the applicable post-incarceration supervision;

- Provide that no downward dispositional departure could be imposed for any crime of extreme sexual violence. A downward durational departure only could be allowed for any crime of extreme sexual violence to less than 50 percent of the center of the grid range of the sentence for such crime;
- Require that a sentencing judge could not consider social factors as mitigating factors in determining whether substantial and compelling reasons exist for a downward departure;
- Provide that violations of a condition of release that involve power of arrest of the offender could be made upon a verbal statement of a court officer;
- Establish the Substance Abuse Policy Board;
- Extend the sunset provision for the Sex Offender Policy Board to June 30, 2011;
- Make technical amendments; and
- Add conflict resolution measures.

Conference Committee Action

The Conference Committee agreed to do the following:

- Allow for community-based substance abuse treatment in some instances and imprisonment substance abuse treatment for certain other situations;
- Place restrictions on downward departures;
- Establish the Substance Abuse Policy Board;
- Extend the sunset provision for the Sex Offender Policy Board to June 30, 2011;

- Insert conflict resolution measures;
- Insert the provisions regarding minimum security status;
- Insert the provisions regarding postrelease supervision; and
- Insert the provision restricting transfer to the Reception and Diagnostic Unit.

Background

Chris Buck, Enterprise Car Rental and Don McNeely, Kansas Automobile Dealers Association, appeared in support of the bill before the Committee.

There were no opponents to the bill.

The House Committee amended the bill by inserting the following:

- Adding the increased penalty provisions; and
- Expanding the bill to include loaner motor vehicles.

The House Committee of the Whole amended the bill by inserting the additional penalty provisions for violations of leaving the scene of a motor vehicle accident.

The proponents of the bill in the Senate Committee included Chris Buck, Enterprise Leasing; Don McNeeley, Kansas Automobile Dealers Association; Joe Self, Joe Self Chevrolet; Jeff Longbine, Longbine Auto; and Ed Klumpp, Kansas Chiefs of Police Association, and the Kansas Peace Officers' Association. Written testimony in support of the bill was submitted by Jim Hatten, President of Don Hatten Chevrolet; Michael E. Stevens, President of Mike Stevens Auto Group; and Les Eck and Rusty Eck, Midwest Toyota Ford.

The Senate Committee amended the bill to:

- Delete the provision added in the House Committee of the Whole regarding leaving the scene of an accident;
- Add a provision that would create a special rule in sentencing to make a third or subsequent conviction for felony theft a presumptive prison sentence;
- Authorize the court to place the offender who is sentenced to prison pursuant to the special rule on a third or subsequent felony theft or burglary conviction in a state substance abuse treatment facility established by the KDOC, for at least four months, to participate in an intensive substance abuse treatment program, if the offender's underlying sentence is more than four months long and the court has made the findings that substance addiction is the underlying factor in the commission of the crime, the state substance abuse facility is likely to be more effective than prison in reducing the risk of offender recidivism, and such a sentence would serve the community and promote offender reformation;
- Authorize a court to retain jurisdiction to modify an offender's sentence to a less severe penalty after the successful completion of the intensive treatment program. If the offender's term of imprisonment expires, the offender would be placed on the applicable post-release supervision; and
- Clarify that the special rule would not be considered a departure and would not be subject to appeal.

The fiscal note, on the bill as introduced, indicates the fiscal effect would be negligible.

felony theft; substance abuse treatment