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**Senate Judiciary Committee  
March 4, 2025**

**House Bill 2177  
Testimony of the BIDS Legislative Committee  
Presented by Emily Brandt  
Opponent**

Chairperson Warren and Members of the Committee:

HB 2177 increases criminal punishment without any data to suggest that making felony flee and elude a recidivist crime will deter crime. Additionally, sentences for felony flee and elude convictions are already governed by a recidivist special rule. For these reasons, as more fully explained below, the BIDS Legislative Committee respectfully opposes HB 2177.

The Kansas flee and elude statute is already a recidivist statute. Under K.S.A. 8-1568(c)(1), the statute penalizes repeat offenders more harshly. Under K.S.A. 8-1568(c)(1) a first time conviction is a Class B misdemeanor. Then, a second time conviction is a Class A misdemeanor. And, finally, a third or subsequent conviction is a severity level 9 person felony. Once a flee and elude becomes a felony, the statute does not treat flee and elude as a recidivist crime. Under K.S.A. 8-1568(c)(2) and (3), subsequent offenses are not of a higher severity level. This is likely because Kansas increases punishment for subsequent convictions through criminal history.

A felony flee and elude conviction is a person felony. In Kansas, criminal histories are scored from highest, "A," to lowest, "I." A person with 1 person felony conviction in their criminal history has a criminal history score of "D." A person with 2 person felony convictions in their criminal history has a criminal history score of "B." So, while the statute may not be a recidivist statute for felony convictions, the punishment for subsequent convictions increases based on the offender's criminal history. The presumptive underlying prison sentence for convictions under current K.S.A. 8-1568(c)(3) doubles on a second conviction.

Additionally, even though the flee and elude statute is not a recidivist statute for felony convictions, sentences for subsequent convictions are governed by a recidivist special rule. Under K.S.A. 21-6804(v) the sentence for a third or subsequent violation of flee and elude, "shall be presumptive imprisonment and shall be served consecutively to any other term of imprisonment." If a person has two misdemeanor flee and elude convictions, and they are subsequently convicted of felony flee and elude, their presumptive sentence is prison, regardless of their criminal history score.

Lastly, I want to direct this committee's attention to other severity level 4 and 5 felonies. The proposed changes to K.S.A. 8-1568(c)(2) would punish a third or subsequent flee and elude as seriously as involuntary manslaughter, robbery, and sexual exploitation of a child. The proposed changes to K.S.A. 8-1568(c)(3) would punish a third or subsequent flee and elude as seriously as aggravated battery.

This bill would punish people who committed no harm to another as severely as people who committed a murder or caused great bodily harm. And if the flee and elude did result in harm to another, that person may be appropriately charged with additional crimes including aggravated battery and felony murder.

If passed, this bill would have a significant fiscal impact on the state of Kansas, mostly because of much-longer prison stays for committing these crimes but also because of increased defense costs for higher-severity level crimes.

The Kansas sentencing scheme already treats felony flee and elude as a recidivist crime. And prosecutors already have the tools to appropriately charge people who commit additional crimes during a flee and elude. This bill brings significant costs with no benefit. For these reasons, we respectfully ask you to vote no on HB 2177.

For these reasons, we respectfully request this Committee not pass HB 2177.

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