

Report of the
Subcommittee on HB 2017
to the
House Committee on Judiciary

CHAIRPERSON: Representative Steve Alford

OTHER MEMBERS: Representatives Ed Bideau, Carolyn Bridges, Russell Jennings, and Annie Kuether

STUDY TOPICS

- The Subcommittee was charged with studying HB 2017, which would provide that a person convicted of a right-of-way traffic violation that results in a vehicle accident or collision resulting in serious bodily injury or death would be guilty of an unclassified misdemeanor. The bill also would give to victims and the families of victims of such accidents rights to notice, to make a victim impact statement, and to receive restitution. Further, the bill would clarify the procedure for appeals of municipal court actions to the district court.

February 12, 2013

HOUSE JUDICIARY

DATE:

ATTACHMENT

REPORT

CONCLUSIONS AND RECOMMENDATIONS: The Subcommittee recommended the adoption of an amendment that would maintain the sections of HB 2017 concerning appeals of municipal court decisions, add a section concerning appeals of district magistrate judge decisions, and strike the remaining sections.

Proposed Legislation: Substitute bill (attached)

BACKGROUND

HB 2017 would provide that a person convicted of a right-of-way traffic violation that results in a vehicle accident or collision resulting in serious bodily injury or death would be guilty of an unclassified misdemeanor. The bill also would give to victims and the families of victims of such accidents rights to notice, to make a victim impact statement, and to receive restitution. Further, the bill would clarify the procedure for appeals of municipal court actions to the district court.

Following an initial hearing on HB 2017 on January 30, 2013 in the House Committee on Judiciary, the Subcommittee was formed for further study of the bill.

COMMITTEE ACTIVITIES

The Subcommittee met Wednesday, February 6, 2013, following the 3:30 p.m. meeting of the House Committee on Judiciary. Representative Russell Jennings offered a prepared amendment, which maintains the sections of HB 2017 concerning appeals of municipal court decisions, adds a section concerning appeals of district magistrate judge decisions, and strikes the remaining sections. Representative Ed Bideau moved that the Subcommittee recommend the adoption of this amendment, seconded by Representative Carolyn Bridges. Motion passed.

A substitute bill reflecting the changes recommended by the Subcommittee is attached.

Substitute for HOUSE BILL NO. 2017

AN ACT concerning criminal procedure; relating to appeals from municipal court; amending K.S.A. 12-4601 and K.S.A. 2012 Supp. 22-3609 and 22-3609a and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-4601 is hereby amended to read as follows: 12-4601. An appeal may be taken to the district court in the county in which said municipal court is located:

- (a) By the accused person in all cases; and
- (b) By the city upon questions of law.

The appeal shall stay all further proceedings upon the judgment appealed from. No appeal shall be filed until after the sentence has been imposed.

Sec. 2. K.S.A. 2012 Supp. 22-3609 is hereby amended to read as follows: 22-3609. (1) The defendant shall have the right to appeal to the district court of the county from any judgment of a municipal court which adjudges the defendant guilty of a violation of the ordinances of any municipality of Kansas or any findings of contempt. The appeal shall be assigned by the chief judge to a district judge. The appeal shall stay all further proceedings upon the judgment appealed from.

(2) An appeal to the district court shall be taken by filing, in the district court of the county in which the municipal court is located, a notice of appeal and any appearance bond required by the municipal court. Municipal court clerks are hereby authorized to accept notices of appeal and appearance bonds under this subsection and shall forward such notices and bonds to the district court. No appeal shall be filed until after the sentence has been imposed. No appeal shall be taken more than 14 days after the date of the judgment appealed from the

sentence is imposed.

(3) The notice of appeal shall designate the judgment or part of the judgment appealed from. The defendant shall cause notice of the appeal to be served upon the city attorney prosecuting the case. The judge whose judgment is appealed from or the clerk of the court, if there is one, shall certify the complaint and warrant to the district court of the county, but failure to do so shall not affect the validity of the appeal.

(4) Except as provided herein, the trial of municipal appeal cases shall be to the court unless a jury trial is requested in writing by the defendant not later than seven days after first notice of trial assignment is given to the defendant or such defendant's counsel. The time requirement provided in this subsection regarding when a jury trial shall be requested may be waived in the discretion of the court upon a finding that imposing such time requirement would cause undue hardship or prejudice to the defendant. A jury in a municipal appeal case shall consist of six members. All appeals taken by a defendant from a municipal judge in contempt findings, cigarette or tobacco infraction or traffic infraction cases shall be tried by the court.

(5) Notwithstanding the other provisions of this section, appeal from a conviction rendered pursuant to subsection (b) of K.S.A. 12-4416, and amendments thereto, shall be conducted only on the record of the stipulation of facts relating to the complaint.

Sec. 3. K.S.A. 2012 Supp. 22-3609a is hereby amended to read as follows: 22-3609a.

(1) A defendant shall have the right to appeal from any judgment of a district magistrate judge. The chief judge shall be responsible for assigning a district judge for any such appeal. The appeal shall stay all further proceedings upon the judgment appealed from.

(2) An appeal to a district judge shall be taken by filing a notice of appeal with the clerk

of the court. No appeal shall be filed until after the sentence has been imposed. No appeal shall be taken more than 14 days after the date of the judgment appealed from the sentence is imposed.

(3) The clerk of the district court shall deliver the complaint, warrant and any appearance bond to the district judge to whom such appeal is assigned. The case shall be tried de novo before the assigned district judge.

(4) No advance payment of a docket fee shall be required when the appeal is taken.

(5) All appeals taken by a defendant from a district magistrate judge in misdemeanor cases shall be tried by the court unless a jury trial is requested in writing by the defendant. All appeals taken by a defendant from a district magistrate judge in traffic infraction and cigarette or tobacco infraction cases shall be to the court.

(6) Notwithstanding the other provisions of this section, appeal from a conviction rendered pursuant to subsection (c) of K.S.A. 22-2909, and amendments thereto, shall be conducted only on the record of the stipulation of facts relating to the complaint.

Sec. 4. K.S.A. 12-4601 and K.S.A. 2012 Supp. 22-3609 and 22-3609a are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.