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MEMORANDUM

To: Senate Committee on Judiciary

From: Jason Thompson, Senior Assistant Revisor of Statutes

Date: February 6, 2018

Subject: Bill Brief for HB 2439, as amended by House Committee of the Whole

HB 2439 creates two new crimes related to driving under the influence within the current crimes of involuntary manslaughter and aggravated battery.

Section 1 amends K.S.A. 21-5405 to create a new crime within the current crime of involuntary manslaughter when a person kills a human being while driving under the influence and the person is driving: (1) in violation of a restriction imposed on the person's driving privileges pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated; (2) while the person's driving privileges have been suspended or revoked pursuant to article 10 of chapter 8 of the Kansas Statutes Annotated; or (3) the person has been deemed to be a habitual violator, including at least one violation involving driving under the influence. Violation of this new provision will be a severity level 3, person felony.

Section 2 amends K.S.A. 21-5413 to create a new crime within the current crime of aggravated battery when great bodily harm to another person or disfigurement of another person results from a person driving under the influence and the person is driving in violation of a driving restriction as outlined in section 1. Violation of this new provision will be a severity level 4, person felony.

The remaining sections are related to the substantive changes, amending various statutes to treat these new crimes in the same way involuntary manslaughter while driving under the influence is treated under current law. For example, Section 4 (driving a commercial motor vehicle under the influence), Section 6 (test refusal), and Section 7 (driving under the influence) are amended so that convictions of either new crime are considered for the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under the section.