

MEMORANDUM

To: Brendan Yorkey, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: February 6, 2019
Re: Prison Bed Impact Assessment, **SB 81 – Changing penalties for crimes related to motor vehicles.**

IMPACT ASSESSMENT

- This bill will not have an immediate impact on prison admissions and bed space. It **may** have an impact if offenders' probations are revoked and are sentenced to prison, but it cannot be determined at this time.
- This bill **will** have an impact on the workload of the Commission, but it cannot be determined at this time.

SUMMARY OF THE BILL

Section 1. This section amends K.S.A. 2018 Supp. 8-1568 by adding **operating a stolen motor vehicle** to the list of acts listed in subsection (b) that, if committed during a police pursuit along with the other elements, shall make the driver guilty as provided in (a)(2).

This section adds language stating that any term of confinement imposed for a violation of subsection (a)(1)(B) or (b) shall be served consecutively to any other term of confinement imposed for any other violation committed in whole or in part during the act of violating subsection (a)(1)(B) or (b).

Section 2. This section amends K.S.A. 2018 Supp. 21-5801 by creating another exception to the general rule that theft less than \$1,500 is a class A nonperson misdemeanor. Under this bill, theft of property that is a motor vehicle valued at less than \$1,500 is a severity level 10, nonperson felony. **Currently, such violation would be a class A nonperson misdemeanor.**

Section 3. This section amends K.S.A. 2018 Supp. 21-5804 by stating that in a prosecution for theft as defined in K.S.A. 21-5801, and such theft is of a of a motor vehicle, fleeing or attempting to elude a police officer as defined in K.S.A. 8-1568(a)(1)(B) or (b), shall be prima facie evidence of intent to permanently deprive the owner of the motor vehicle of the possession, use or benefit thereof.

Section 4. This section states that K.S.A. 2018 Supp. 8-1568, 21-5801 and 21-5804 are hereby repealed.

Section 5. This section states that the act shall take effect and be in force from and after its publication in the statute book.

FINDINGS

- In FY 2018, **363** offenders were convicted the crime of fleeing or eluding a law enforcement officer under K.S.A. 8-1568. Of this number:
 - **118** (32.5%) were sentenced to prison; and
 - **245** (66.5%) were sentenced to probation.
 - All of the offenders were sentenced at severity level 9, except one at severity level 10.
- In FY 2018, **1,019** offenders were convicted of the crime of theft under K.S.A. 21-5801. Of this number:
 - **274** (27%) were sentenced to prison and
 - **745** (73%) were sentenced to probation.
 - **890** (87.3%) were sentenced at severity level 9;
 - **64** (6.3%) were sentenced at severity level 10;
 - **57** (5.6%) were sentenced at severity level 7;
 - **1** (0.1%) was sentenced at severity level 8; and
 - **7** (0.7%) were sentenced at severity level 5.
- Currently, no data exists for violation of K.S.A 8-1568 operating a stolen motor vehicle or theft of a motor vehicle valued at less than \$1,500.

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PROPORTIONALITY COMPARISON (Proposed Changes in Bold)

Statute Number Violated	Statutory Penalty Section	Registration Required "R"	Statute Description	Severity Level / Class	Attempt, Conspiracy & Solicitation			Person Nonperson/ Select
					A	C	S	
21-6301(a)(15)	(b)(4)		Criminal Use of Weapons; Knowingly possess firearm while a fugitive from justice	8	10	10	10	Nonperson
21-5824(a)	(b)		False Writing; Make, generate, distribute or draw, any written instrument, electronic data or entry in a book of account knowing that such information falsely states or represents some material matter or is not what it purports to be, and with intent to defraud, obstruct the detection of a theft or felony offense or induce official action	8	10	10	10	Nonperson
21-6301(a)(16)	(b)(4)		Criminal Use of Weapons; Knowingly possess firearm by a person who is an alien illegally or unlawfully in the United States	8	10	10	10	Nonperson
21-5801(a)(3)	(b)(6)		Theft of Property or Services; By threat; value less than \$1,500 and committed by a person who has within five years immediately preceeding commission of the crime, been convicted of theft 2 or more times	9	10	10	10	Nonperson

21-5801(a)(3)	(b)(7)	Theft of Property or Services; By threat; property is a firearm of value less than \$25,000	9	10	10	10	Nonperson
SB 81 8-1568(b)	(c)(2)	Fleeing or Attempting to Elude a LEO; Evade road block, drive reckless, involved in accident, commit 5 moving violations, operating stolen vehicle , attempt to elude from felony capture	9	10	10	10	Person
SB 81 21-5801(a)(1)	(b)(8)	Theft of Property or Services; Obtain or exert unauthorized control; motor vehicle valued at less than \$1,500	10	10	10	10	Nonperson
SB 81 21-5801(a)(2)	(b)(8)	Theft of Property or Services; By Deception; motor vehicle valued at less than \$1,500	10	10	10	10	Nonperson
SB 81 21-5801(a)(3)	(b)(8)	Theft of Property or Services; By threat; motor vehicle valued at less than \$1,500	10	10	10	10	Nonperson
SB 81 21-5801(a)(4)	(b)(8)	Theft of Property or Services; Stolen Property; Knowing the property to have been stolen by another; motor vehicle valued at less than \$1,500	10	10	10	10	Nonperson
21-6207(a)	(b)(2)	Unlawful Request for Emergency Service Assistance; Using an electronic device or software to alter, conceal or disguise the source of the request or the identity of the person making such request	10	10	10	10	Nonperson
21-5915(b)	(c)(2)	Aggravated Failure to Appear; Knowingly incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days of forfeiture or conviction by one who is charged with or convicted of a felony	10	10	10	10	Nonperson
21-6306(a)	(b)	Defacing Identification Marks of Firearm; Intentionally change, alter, remove or obliterate	10	10	10	10	Nonperson