

HCS HB 1316 -- CRIME

SPONSOR: Lipke

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 12 to 0.

This substitute changes the laws regarding crime prevention. In its main provisions, the substitute:

- (1) Adds any moving violation, as defined by Section 302.010, RSMo, to the list of infractions for which a court may order payment to the county law enforcement restitution fund;
- (2) Defines "central repository" and "forensic DNA analysis" and allows a person determined to be actually innocent of a crime to receive \$50 for each day of post-conviction incarceration and an automatic expungement of any records concerning the crime for which the person was innocent;
- (3) Changes the expiration date on criminal court surcharges from August 28, 2006, to August 28, 2013;
- (4) Increases the penalty for the crimes of enticement of a child and attempt to commit enticement of a child to a term of imprisonment of no less than five years and no more than 30 years. Any person convicted of these crimes will not be eligible for parole, probation, conditional release, or suspended imposition of sentence for five years. Currently, enticement of a child is a class C felony, and attempt to commit enticement of a child is a class D felony;
- (5) Establishes procedures for search warrants where notification of the existence of the search warrant causes an adverse result including danger to the life or physical safety of an individual, flight from prosecution, the destruction or tampering with evidence, the intimidation of witnesses, or serious jeopardy to an investigation;
- (6) Specifies that records sought under the search warrant be produced within five business days of receipt;
- (7) Requires a showing of good cause by a foreign corporation that an extension of time will not cause an adverse result;
- (8) Specifies that any attempt made to quash the warrant must be made in the court that issues the warrant within the time required for production of records;
- (9) Requires Missouri corporations providing electronic

communication services, when served with a warrant from another state, to produce records pertaining to customer identification, data stored by or on behalf of the customer, the customer's usage of those services, or the destination or content of the communications as if the warrant had been issued by a Missouri court;

(10) Gives immunity to Missouri corporations providing records sought under a search warrant as specified in the substitute;

(11) Creates the crime of disarming a peace or correctional officer if a person intentionally removes from the peace or correctional officer or deprives the peace or correctional officer the use of his or her firearm or other deadly weapon while the officer is acting within the scope of his or her official duties. The crime, a class C felony, does not include situations in which the person does not know or could not reasonably have known that the person was a peace or correctional officer or if the officer was engaged in felonious conduct at the time of the disarmament;

(12) Requires a photograph to be taken of an incarcerated individual upon release and made available to the victim at the victim's request. The substitute also allows victims to be represented by an appointed person instead of a personal appearance during parole and probation revocation hearings for the defendant. The victim's appointee who honors any subpoena to testify in or attend a criminal proceeding is protected from discharge by any employer or from using vacation, personal, or sick leave to attend any criminal proceeding.

(13) Authorizes access to official court records to victims of offenses against the family found in Chapters 566 and 568 to use in his or her own judicial proceedings. Currently, access to official court records for persons arrested and charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended is limited to law enforcement agencies, child care agencies, residential care facilities, and skilled nursing facilities;

(14) Revises the definition of "intoxication-related traffic offense" to include any offense committed in another state or any federal or military offense which, if committed in Missouri, would be considered an intoxication-related traffic offense. The substitute also specifies that a person may be considered an aggravated or chronic offender if he or she has committed any offense in another state or any federal or military offense which, if committed in Missouri, would be considered an intoxication-related traffic offense;

(15) Authorizes the State Highway Patrol to conduct background checks on gubernatorial appointees who are subject to Senate confirmation. Information received by the patrol must be kept confidential and cannot be disclosed to anyone except the Governor or members of the Governor's staff as necessary to determine the appointee's qualifications;

(16) Authorizes state agencies to conduct criminal background checks on certain applicants and employees. The applicant or employee must submit a set of fingerprints to the patrol for investigation purposes. All records related to the criminal history of the applicant or employee will be made available to the requesting state agency;

(17) Specifies that a prosecution is commenced for a misdemeanor or infraction when the information is filed. A prosecution for a felony is commenced when the complaint is filed;

(18) Authorizes the prosecuting or circuit attorney to dismiss a complaint, information, or indictment without the consent of the court;

(19) Increases the penalty for the crime of making a false report from a class B misdemeanor to a class A misdemeanor;

(20) Expands the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the first, second, or third degree to include corrections officers;

(21) Allows a party to file a written motion for disqualification of a judge within 10 days after discovering the ground for disqualification;

(22) Prohibits the use or possession of an alcohol beverage vaporizer. Any substance that has been approved by the federal Food and Drug Administration as an over-the-counter or therapeutic drug product administered by an authorized medical practitioner is exempt;

(23) Creates the crime of distribution of a controlled substance near a park when a person unlawfully distributes or delivers a controlled substance to another individual within 1,000 feet of a public, private, state, county, or municipal park, a class A felony;

(24) Allows any sheriff or jailer to refuse to accept or incarcerate any prisoner from other officers or constables if they deem the prisoner to be medically unfit for confinement;

(25) Allows any offender to refuse parole that is conditioned on

the performance of free work. Any county, city, person, organization, agency, or its employee who is charged with the supervision of free work or who benefits from its performance will be immune from any cause of action arising from his or her supervision of performance, except for an intentional tort or gross negligence;

(26) Eliminates the provision of law which permits a judgment to be entered against the prosecutor for the trial costs if the defendant is acquitted of the prosecution;

(27) Allows a judge to order, as a condition of probation, the probationer to be vaccinated for Hepatitis A and B at his or her local health department with the costs to be paid by the probationer;

(28) Requires crime victims to be paid up to \$250 from the Crime Victims' Compensation Fund to replace clothing, bedding, or other personal items seized by law enforcement as evidence of a crime;

(29) Increases the penalties for the various classifications of identity theft crimes if the person has previously pled guilty to or been found guilty of an identity theft crime;

(30) Expands protection for the elderly against financial exploitation; and

(31) Allows a judge to order the defendant in a municipal or circuit criminal case to pay costs as determined in Section 488.012.

FISCAL NOTE: Estimated Effect on General Revenue Fund of a cost of More than \$237,554 in FY 2007, a cost of More than \$238,749 to an income of Unknown in FY 2008, and a cost of More than \$239,619 to an income of Unknown in FY 2009. Estimated Income on Other State Funds of \$2,879,166 in FY 2007, \$4,058,001 in FY 2008, and \$4,758,001 in FY 2009.

PROPOSERS: Supporters say that police officers have no course of action against a person for struggling with the officer in an attempt to take the officer's weapon. The bill will make it a class C felony, unless the person didn't know the person was an officer or there was felonious conduct on the part of the officer.

Testifying for the bill were Representative Lipke; and Missouri Sheriffs' Association.

OPPOSERS: There was no opposition voiced to the committee.

Kristina Jenkins, Legislative Analyst