

HCS#2 SCS SB 1221 -- CRIME

SPONSOR: Goodman (Lipke)

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 13 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) Authorizes the prosecuting or circuit attorney to dismiss a complaint, information, or indictment without the consent of the court;

(3) Authorizes the City of St. Louis to impose, upon voter approval, a sales tax of up to 0.5% for the operation of public safety departments as well as for the compensation, pension programs, and health care for public safety employees and pensioners;

(4) 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;

(5) Creates the crime of falsifying or attempting to falsify a drug or alcohol test when a person knowingly and intentionally commits a fraudulent act to falsify or defraud a drug or alcohol test. Evidence of a fraudulent act will be possession of false tubing, bladders, containers, and other devices concealed on the body to provide a false biological sample; submitting a false or adulterated biological sample to be tested; submitting a biological sample that was collected from another person or animal; adulterating a biological sample; or submitting a false document or false material statement with the intent to hinder or defraud a drug or alcohol test. Violation of this offense will be a class C felony. It will be a class A misdemeanor to manufacture, possess, sell, give away, distribute, market, or transport a biological sample in this state with the intent of using the biological sample to hinder or defraud a drug or alcohol test or substances intended to be used to adulterate a biological sample for the purpose of hindering or defrauding a drug or alcohol test;

(6) Requires a photograph to be taken of an incarcerated individual upon release and made available to the victim at the victim's request;

(7) 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;

(8) Allows any sheriff or jailer to refuse to accept or incarcerate any prisoner that is deemed to be medically unfit for confinement;

(9) Changes the process for registering securities in Missouri by requiring a statement of cash flows instead of a statement declaring changes in financial position. The substitute also removes the discretion of the Commissioner of Securities to institute a revocation or suspension proceeding based on an order issued under a law of another state that is reported more than one year after the date of the order. Orders from the commissioner may include a civil penalty or the costs of the investigation when sought in the statement accompanying the order. The standard for imposing a \$50,000 civil penalty changes from several violations to more than one violation of a commissioner's order;

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

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

(12) Removes the exemption for cases disposed of by a traffic violations bureau. Sheriffs, county marshals, and other officers are currently authorized to charge a fee for their services in certain cases;

(13) 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;

(14) Expands the crime of unlawful transactions with a child to include a wholesaler, retailer, or employee of a wholesaler or retailer who knowingly sells, rents, or otherwise makes available a video game which is rated mature or adults only or which contains intense or graphic violence or graphic depictions of sexual behavior;

(15) Changes the term "stealing-related offense" to include robbery and clarifies that a person who has pled or been found guilty of two separate stealing offenses, which were committed on two separate occasions, will be guilty of a class B felony;

(16) Increases the penalty for the crime of possession of child pornography from a class C felony to a class B felony;

(17) 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 disarmament;

(18) Establishes the Alan Woods Law and specifies that any state, county, or municipal law enforcement officer who has the power to arrest an individual for driving with excessive blood-alcohol content or driving while intoxicated and is certified under Missouri law will administer a chemical test to any person suspected of driving a motor vehicle involved in a collision which resulted in a fatality or serious physical injury;

(19) Increases the penalties for littering by requiring at least 40 hours of community service and a \$600 restitution payment. One half of the restitution payment will be deposited into the county law enforcement restitution fund, and the remaining half will be deposited into the county school fund. If the county in which the crime occurred does not have a county law enforcement restitution fund, the entire amount will be deposited into the county school fund;

(20) 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;

(21) 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;

(22) Changes the laws regarding damages to an animal facility for which criminal penalties are imposed. The penalties will be:

(a) A misdemeanor for animal facility damage up to \$200;

(b) A class D felony for animal facility damage exceeding \$200, but not exceeding \$5,000;

(c) A class C felony for animal facility damage exceeding \$5,000, but not exceeding \$75,000; and

(d) A class B felony for animal facility damage exceeding \$75,000;

(23) Requires the Peace Officer Standards Training (POST) Commission to make training available to peace officers that provides instruction on the investigation of crimes involving the use of a computer, the Internet, or both;

(24) 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;

(25) Allows victims to be represented by an appointed person instead of appearing in person during parole and probation revocation hearings for the offender. 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;

(26) 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;

(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; and

(28) Creates the crime of knowingly entering unlawfully or knowingly remaining unlawfully on any property designated as a licensed hunting preserve by the Department of Conservation, a class A misdemeanor.

FISCAL NOTE: Estimated Effect on General Revenue Fund of a cost of More than \$100,000 in FY 2007, a cost of More than \$100,000 to an income of Unknown in FY 2008, and a cost of More than \$100,000 to an income of Unknown in FY 2009. No impact on Other State Funds in FY 2007, FY 2008, and FY 2009.

PROPONENTS: Supporters say that most judges interpret the law to mean that a person has to steal on two separate occasions in

order to be charged with a felony, yet other judges interpret it to mean that the defendant must plead guilty on two different days of a stealing offense. The bill will clarify the existing law.

Testifying for the bill was Senator Goodman.

OPPONENTS: There was no opposition voiced to the committee.

Kristina Jenkins, Legislative Analyst