

HCS HB 707 -- PUBLIC SAFETY

SPONSOR: Bruns

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

This substitute changes the laws regarding public safety. In its main provisions, the substitute:

(1) Allows the executive officer of any public safety agency to enter into a mutual-aid agreement for reciprocal emergency aid and specifies that the Department of Public Safety will administer the state mutual-aid system. Any employee of a political subdivision or public safety agency responding to an emergency, disaster, or public safety need that is not declared by the Governor as an emergency is subject to the liability and workers' compensation provisions provided to him or her as an employee of the subdivision or agency. However, during a Governor-declared emergency, any employee responding will not be liable for civil damages or administrative sanctions for the failure to exercise the skill and learning of an ordinarily careful public safety professional in similar circumstances but will be liable for damages due to willful and wanton acts or omissions in rendering services (Section 44.090, RSMo);

(2) Prohibits a county assessor from releasing the home address or any other information in his or her records regarding any peace officer or a member of the peace officer's immediate family upon a written request to the assessor along with proof that the person is eligible to make the request (Section 53.201);

(3) Authorizes the City of St. Ann to impose, upon voter approval, a sales tax of 1% for the purpose of public safety improvements including equipment expenditures, compensation for city employees, and facilities for police, fire, and emergency medical providers (Section 94.903);

(4) Adds reducing the incidents of financial exploitation of the elderly to the public education and awareness program regarding elder abuse and neglect administered by the Department of Health and Senior Services (Section 192.925);

(5) Transfers the Division of Aging from the Department of Social Services to the Department of Health and Senior Services (Section 192.2000);

(6) Transfers the powers, duties, and functions of the Board of Nursing Home Administrators from the Department of Social Services to the Department of Health and Senior Services (Section

192.2000.9);

(7) Revises the definition of "protective services" to mean a service provided by the state or other governmental or private organization or individual which is necessary for the safety and well being of an elderly person or an adult with disabilities who is in danger of being mistreated or neglected and unable to take care of or protect himself or herself from harm (Section 192.2003);

(8) Grants immunity from civil and criminal liability for any person making a report of abuse or neglect to the Department of Health and Senior Services unless the person acts negligently, recklessly, in bad faith, or with malicious purpose (Sections 192.2103.5 and 192.2150.11);

(9) Requires any health service provider, health service vendor employee, personal care attendant, or any person having reasonable cause to believe that a patient or consumer has been a victim of misappropriation of a patient's money or property or has falsified documents verifying delivery of health care services to report the information to the Department of Health and Senior Services within 24 hours of discovering the act (Sections 192.2150.2 and 192.2150.3);

(10) Requires the department, upon receipt of an imminent danger report, to initiate a thorough investigation promptly, but removes the 24-hour time requirement. If an investigation indicates a crime has occurred, the appropriate law enforcement agency and the prosecutor must be notified. The department must notify the resident's legal representative of the report and investigation status when it involves a resident who has been appointed a guardian and/or conservator or who is incapacitated and resides at a state-licensed facility. The department may also notify the resident's family members, guardians, or conservators (Sections 192.2150.6 and 192.2150.7);

(11) Requires the Department of Health and Senior Services to keep confidential the names of individuals submitting abuse and misappropriation reports unless the complainant agrees to the disclosure of his or her name; it is necessary to prevent further abuse and neglect, misappropriation of funds, or document falsification; the name of the complainant is lawfully subpoenaed; the release of a name is required by the Administrative Hearing Commission; or the release of a name is requested by the Department of Social Services for the purpose of licensure under Chapter 210 (Section 192.2150.9);

(12) Requires the Department of Health and Senior Services to add persons who have falsified documents verifying service

delivery to consumers or have misappropriated property or moneys belonging to consumers to the employee disqualification list for employees of any provider or consumer (Section 192.2150.12);

(13) Protects a patient and the patient's family members or an employee from eviction, harassment, dismissal, or retaliation due to the filing of a report of a violation or suspected violation of the provisions of the substitute (Section 192.2150.13);

(14) Requires potential patients and consumers whose services are funded by the MO HealthNet Program to be checked against the sexual offender registry maintained by the State Highway Patrol and requires the Department of Health and Senior Services to notify providers at the time of referral if a patient or consumer is on the registry (Section 192.2150.15);

(15) Specifies that any person failing to file a required report within the time guidelines and any person or provider who misuses or diverts the consumer's use of any personal property or money or falsifies service delivery documents will be guilty of a class A misdemeanor. Any provider or employee who knowingly conceals abuse or neglect that results in the death or serious injury of a patient will be guilty of a class D felony (Sections 192.2153.1 - 192.2153.3);

(16) Authorizes the Department of Health and Senior Services to assess a \$1,000 fine on any provider who willfully and knowingly fails to report known abuse by an employee. Any provider may seek a review of a department's decision by the Administrative Hearing Commission which may be appealed to the circuit court in the county where the violation occurred (Section 192.2153.4);

(17) Specifies that any person or entity who unlawfully discloses information from the employee disqualification list will be guilty of an infraction; and upon request from the Division of Employment Security within the Department of Labor and Industrial Relations, the Department of Social Services must provide copies of employee investigation reports of individuals on the list. Persons on the list cannot be paid from public moneys for personal care assistant services (Sections 192.2175.11 - 192.2175.12);

(18) Requires health care providers or employment agencies to make inquiries to the Department of Health and Senior Services to determine if a full or part-time applicant for employment which involves consumer contact is on the employee disqualification list prior to hiring the applicant (Section 192.2178.3);

(19) Prohibits, as of August 28, 2009, a provider from hiring any person with a disqualifying history unless the person has

submitted an approved good cause waiver. Providers cannot continue to employ people who were hired prior to August 28, 2009, with disqualifying backgrounds after March 1, 2009, unless the person submits an approved good cause waiver prior to January 1, 2009. An employer who knowingly hires a person who is a registered sexual offender on or after August 28, 2009, will be guilty of a class A misdemeanor (Sections 192.2178.7 and 192.2178.8);

(20) Specifies that a consumer-directed services vendor or hospice will be guilty of a class A misdemeanor if it does not request a background screening check from the family care safety registry prior to allowing the employee to have contact with an in-home patient (Section 192.2178.10);

(21) Prohibits any state or federal funding for personal care assistance services if the attendant is on the employee disqualification list; is a registered sexual offender; or has a disqualifying criminal history, unless a good cause waiver is obtained (Section 208.909.4);

(22) Defines "related personal care" as care provided for a person with a physical or medical disability by an adult relative as it relates to the Family Care Safety Act (Section 210.900.2);

(23) Requires any person responsible for the care of a person 60 years of age or older who has cause to suspect that the person has been abused, neglected, or financially exploited by a person, firm, or corporation to make a report to the Department of Health and Senior Services. Any person who purposely files a false report will be guilty of a class D felony (Section 565.188.1);

(24) Specifies that any person who commits the offense of identity theft against an elderly or disabled person can be fined up to one and one-half times the maximum fine, imprisoned for up to one and one-half times the maximum sentence term, or both (Section 570.223.3);

(25) Clarifies existing language regarding which long-term care facilities are required to comply and the date by which they must comply with the provisions regarding the installation of sprinkler systems (Section 198.074);

(26) Allows facilities that have submitted a plan for compliance for the installation of a commercial sprinkler system to be eligible for a loan from the Department of Health and Senior Services (Section 198.074.4);

(27) Requires facilities that have submitted a plan for compliance for the installation of a commercial sprinkler system

to equip each sleeping room in the facility with a battery-powered smoke alarm until the commercial system is completely installed. The facilities must also be equipped with heat detectors interconnected to the fire alarm system in areas subject to nuisance alarms (Section 198.074.7);

(28) Allows local fire protection districts or fire departments that are deemed qualified by the State Fire Marshal to conduct fire safety inspections of these facilities for compliance with state statutes regarding the installation of the sprinkler system (Section 198.074.9);

(29) Allows certain paid police officers of a paid police department to be eligible for workers' compensation benefits for an injury due to psychological stress (Section 287.067);

(30) Allows licensed drivers to operate off-highway vehicles on gravel or dirt roads located in any charter county in certain situations. Anyone violating these provisions will be guilty of a class C misdemeanor and may be subject to a civil penalty of up to \$1,000 per day of violation (Section 300.349);

(31) Adds individuals using explosives along with a well screen cleaning device for the purpose of unblocking clogged agriculture irrigation well screens to the list of individuals who are exempt from obtaining a blaster's license (Sections 319.306 and 319.321);

(32) Allows any fire protection district in St. Louis County to impose, upon voter approval, a sales tax of up to 1% on all retail sales within the fire protection district. Revenues collected from the sales tax will be deposited into the newly created Fire Protection District Sales Tax Fund. Ninety percent of the revenue will be distributed to the fire protection district from which the sales tax was collected, and 10% will be distributed to the fire protection districts per capita based upon the population of each distressed fire protection district. Any fire protection district imposing the sales tax must reduce the district's property tax rate by an amount sufficient to decrease property tax revenues by 50% of the previous year's revenue received from the fund (Section 321.227);

(33) Requires all information regarding the service of an ex parte order of protection to be entered into the Missouri Uniform Law Enforcement System or any future similar secure electronic database by the responsible agency within 24 hours after the order is served (Section 455.038);

(34) Specifies that a person who steals or receives a stolen firearm or an explosive weapon will be guilty of a class C felony

regardless of the item's value (Sections 570.030 and 570.080);

(35) Allows an individual to receive compensation from the Crime Victims' Compensation Fund if that person receives damage to his or her property of an out-of-pocket loss of at least \$50 as a result of another person's commission of or attempt to commit any dangerous felony. A person filing a claim for compensation must submit any receipts, estimates, or other evidence which demonstrates the value of the property damaged and the extent of the loss. The Division of Workers' Compensation within the Department of Labor and Industrial Relations may appoint an independent expert to make a determination of the amount of loss (Sections 595.010 - 595.045 and 595.065);

(36) Requires the removal of all emergency lights, sirens, and decals designating a vehicle as an emergency vehicle prior to selling or consigning the vehicle unless it is being sold directly to another public or private public safety agency (Section 650.465);

(37) Requires all state, county, and municipal law enforcement agencies and officers, beginning July 1, 2011, to use only a canine team which has been certified by an association approved by the Department of Public Safety when a canine performs or assists in certain law enforcement specialties. The department must establish the standards and criteria for canine certification and recertification including, but not limited to, obedience, aggression, and narcotics and explosives detection (Section 650.600 - 650.612);

(38) Allows the Elevator Safety Board within the Department of Insurance, Financial Institutions and Professional Registration to adopt a code of rules and regulations governing licenses of elevator mechanics and elevator contractors (Section 701.355); and

(39) Allows any first classification county to establish curfew hours for any person younger than 17 years of age. Any person violating curfew ordinances or any parent, guardian, or other person having the legal care of custody of the person and has knowledge of the violation will be guilty of a class C misdemeanor (Section 1).

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$1,669,811 in FY 2010, \$1,076,686 in FY 2011, and \$1,098,802 in FY 2012. Estimated Cost on Other State Funds of Could exceed \$441,000 in FY 2010, Could exceed \$3,173,400 in FY 2011, and Could exceed \$3,173,400 in FY 2012.

PROPONENTS: Supporters say that the bill provides certain

long-term care facilities that were unable to be compliant with legislation passed in 2007 with an exception due to the fact that the Department of Health and Senior Services and the Joint Committee on Administrative Rules caused a delay in the passage of department rules. The bill also allows local fire departments to conduct certain required tests if approved to do so by the State Fire Marshal.

Testifying for the bill were Representative Wilson (130); Missouri Assisted Living Association; Department of Health and Senior Services; and Missouri Health Care Association.

OPPONENTS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say that it is unnecessary to include a specific year edition of the National Fire Protection Code in statute.

Testifying on the bill was State Fire Marshal.