

HCS SB 26 -- CRIME

SPONSOR: Ridgeway (Nolte)

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention by a vote of 7 to 0.

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

(1) Prohibits law enforcement agencies from fingerprinting a juvenile older than 15 years and six months of age who is alleged to have violated a traffic ordinance unless the juvenile is certified as an adult and requires law enforcement agencies to forward a photograph and certification papers to the central repository in cases where the juvenile has been certified as an adult (Section 43.503.3, RSMo);

(2) Requires the municipal prosecuting attorney to notify the central repository of his or her decision not to file criminal charges on any charge referred to him or her (Section 43.503.5);

(3) Requires municipal court clerks to furnish the central repository with a record of all charges filed in cases where the central repository has an arrest record or fingerprint and expands the list of crimes that are reportable to the central repository (Sections 43.503.6 and 43.506);

(4) Allows a court to order law enforcement agencies or court marshals to fingerprint an individual at the time of any court appearance if the person has not been fingerprinted for an offense in which a fingerprint is required. The order must contain the offense, charge code, date of the offense, and any other information necessary to complete the fingerprint card (Section 43.503.8);

(5) Revises the process by which a qualifying entity may obtain a criminal record of certain individuals from the State Highway Patrol (Section 43.540);

(6) Increases the maximum fine for all municipal ordinance violations in the City of Kansas City from \$500 to \$1,000 except for ordinances requiring compliance by an industrial user with any pretreatment standard or requirement (Section 82.300);

(7) Requires the Department of Health and Senior Services to implement an education and awareness program regarding the financial exploitation of the elderly (Section 192.925);

(8) Increases the penalty for the possession of 35 grams or less

of marijuana when in the presence of a person younger than 17 years of age from a class C felony to a class B felony (Section 195.202);

(9) Specifies that the Amber Alert System is to aid in the location of abducted children rather than adults by defining "abducted child" as an individual whose whereabouts are unknown, is younger than 18 years of age, and is reasonably believed to be a victim of kidnapping or younger than 18 years of age and at least 14 years of age who would be reasonably believed to be a victim of child kidnapping if the person was younger than 14 years of age (Section 210.1012);

(10) Requires a photograph to be taken of an incarcerated individual prior to release and made available to the victim upon the victim's request (Section 217.439);

(11) Specifies that a detainer will not be lodged against any person confined in a correctional facility until the Director of the Department of Corrections receives a certified copy of a warrant and a written request by the issuing agency to place the detainer (Sections 217.450 and 217.460);

(12) Requires the Governor to designate one member of the Board of Probation and Parole within the department as the Vice Chairman (Section 217.665);

(13) Allows offenders to appear before the board by means of a video conference, rather than a personal appearance, at the discretion of the board (Section 217.670);

(14) Removes the provision that requires the prosecuting attorney to appear in behalf of the Director of the Department of Revenue in circuit court cases or hearings reviewing administrative decisions regarding alcohol-related traffic offenses (Section 302.311);

(15) Specifies that any person convicted of criminal securities fraud will be fined up to \$1 million, imprisoned for up to 10 years, or both and may be ordered to pay restitution for any loss plus an interest rate of 8% per year from the date of the violation or an additional civil penalty of up to \$5,000 for each violation against an elderly or disabled person (Sections 409.5-508 and 409.6-604);

(16) Allows the judge in a criminal or municipal case that is dismissed before the defendant pleads guilty or is found guilty to assess court costs against the defendant as specified in Section 488.012 if the defendant consents to pay and is not indigent and unable to pay the costs (Sections 479.260, 488.5025,

and 488.5032);

(17) Creates the crime of failure to appear if a person knowingly fails to appear before any court or judicial officer as required. Failure to appear will be a class D felony if the criminal matter for which the person was released included a felony, a class A misdemeanor if the criminal matter includes a misdemeanor, or an infraction if the criminal matter includes only an infraction or a violation of a municipal ordinance (Section 544.665);

(18) Removes the requirement that the prosecutor be assessed court costs in trespass cases if the defendant is acquitted or the prosecution fails (Sections 454.050, 550.040, 550.050, 550.070, and 550.090);

(19) Specifies that the statute of limitation for an arson offense is five years (Section 556.036);

(20) Specifies that the Board of Probation and Parole within the department will not have authority to supervise offenders who have pled guilty to or been found guilty of rape and sodomy since these offenders will no longer be eligible for probation (Section 559.106);

(21) Revises the definition of "domestic assault offense" to include any offense committed in another state or any federal, tribal, or military offense which, if committed in Missouri, would be considered a domestic assault offense (Section 565.063);

(22) Specifies that a person who commits the crime of assault of a corrections officer or a highway worker in a construction or work zone will be guilty of a class A felony and expands the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the first, second, and third degree to include a highway worker in a construction or work zone (Sections 565.081, 565.082, and 565.083);

(23) Expands the crime of tampering with a judicial officer to include juvenile officers and deputy juvenile officers (Section 565.084);

(24) Specifies that a prisoner or offender who commits sexual misconduct in the second degree in the presence of an employee or person assigned to work in any jail, prison, or correctional facility will be guilty of a class D felony (Section 566.093);

(25) Prohibits certain sexual offenders from being physically present or loitering within 500 feet of or approaching, contacting, or communicating with any child younger than 18 years

of age in any child care facility building or the real property comprising any child care facility when children younger than 18 years of age are present in the building or on the grounds unless the person is the parent, guardian, or custodian of a child in the building or on the grounds. Any person violating these provisions will be guilty of a class A misdemeanor (Section 566.148);

(26) Prohibits certain sexual offenders from knowingly being present in or loitering within 500 feet of any real property comprising any public park with playground equipment or public swimming pool. Any person violating this provision will be guilty of a class D felony for the first offense and a class C felony for a subsequent offense (Section 566.150);

(27) Prohibits certain sexual offenders from serving as an athletic coach, manager, or trainer for any sports team in which a child younger than 17 years of age is a member. Any person violating this provision will be guilty of a class D felony for the first offense and a class C felony for a subsequent offense (Section 566.155);

(28) Specifies that the name of a defendant in a criminal case for crimes of sexual assault, domestic assault, stalking, or forcible rape will not be considered identifying information and will not be redacted from court records (Section 566.226);

(29) 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 (Section 575.030);

(30) Specifies that the term "stealing-related offense" will include robbery and clarifies that a person who has pled guilty to or been found guilty of two separate stealing offenses which were committed on two separate occasions will be guilty of a class B felony (Section 570.040);

(31) Specifies that a person will be guilty of the crime of making a false declaration, a class B misdemeanor, if he or she provides any verbal false statement regarding his or her identity which the person knows to be untrue (Section 575.060);

(32) Increases the penalty for the crime of making a false report from a class B misdemeanor to a class A misdemeanor and specifies that a person will be guilty of a class C misdemeanor if he or she knowingly files a false report with the Department of Natural Resources (Sections 575.080 and 575.082);

(33) Increases the penalty for the crime of resisting or interfering with arrest, detention, or stop from a class D felony

to a class C felony and specifies that resisting or interfering with an arrest for a probation warrant, a parole warrant, a capias warrant, or a bench warrant where the warrant issued was related to a felony will be a class D felony (Section 575.150);

(34) Creates the crime of disarming a peace or correctional officer if a person intentionally removes from or deprives the peace or correctional officer of 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 (Section 575.153);

(35) Expands the crime of tampering with a judicial proceeding to include influencing the official action of a state prosecuting or circuit attorney (Section 575.260);

(36) 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 (Sections 578.250, 578.255, 578.260, and 578.265);

(37) Transfers the administration of the Crime Victims' Compensation Fund from the Division of Workers' Compensation within the Department of Labor and Industrial Relations to the Department of Public Safety (Sections 595.010 - 595.145);

(38) Adds pharmacists and pharmacies to the list of medical providers who must verify injuries of crime victims if requested to do so by the department (Section 595.027);

(39) 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 (Section 595.030);

(40) Allows the Department of Public Safety to receive gifts and contributions to be credited to the fund for the benefit of crime victims (Section 595.045);

(41) Allows a victim to be represented by counsel or a representative designated by the victim instead of appearing in person during an offender's parole and probation revocation hearing and allows crime victims to receive, upon request from the Department of Corrections, a photograph taken of the defendant prior to release from incarceration (Section 595.209);

(42) Specifies that the State Highway Patrol must develop and make available to appropriate medical providers evidentiary collection kits. The kits will be used by the provider to perform forensic examinations for the purpose of gathering evidence of a sexual offense. The Department of Public Safety must make payments to the providers to cover the charges of the forensic examination if the victim or the victim's guardian consents in writing to the examination and the report of the examination is made on a form approved by the Attorney General with the advice of the department. The payments may be made from moneys appropriated to the department or the Crime Victims' Compensation Fund if the victim is an eligible claimant (Section 595.220);

(43) Specifies that circuit courts do not have to use a reasonable doubt standard when determining if an individual is a sexually violent predator (Section 650.055);

(44) Creates the Reverend Nathaniel Cole Memorial Pursuit Reduction Grant. Any money appropriated or donated to the fund will be used to provide grants, in the amount of a 50% match, to urban police departments which purchase real-time tagging and tracking pursuit management systems. An applicant's eligibility will be determined by the Director of the Department of Public Safety (Section 650.470); and

(45) Repeals provisions regarding owning a hedge fence situated along the right-of-way of any public road (Section 229.110).

FISCAL NOTE: Estimated Cost on General Revenue Fund of More than \$317,734 in FY 2010, More than \$358,817 in FY 2011, and More than \$366,583 in FY 2012. Estimated Cost on Other State Funds of \$207,458 in FY 2010, FY 2011, and FY 2012.

PROPONENTS: Supporters say that the bill prohibits the use or possession of an alcohol vaporizer. These vaporizers can create a serious situation in which alcohol poisoning or death is imminent because alcohol is passed directly to the blood stream without filtering through the liver and other organs to remove toxins.

Testifying for the bill were Senator Ridgeway; Ryan McElheney; Missouri Baptist Convention, Christian Life Commission; Elisha Osenberg; and Brian Keedy, Camden County Prosecutor.

OPPONENTS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill were available to answer any questions.

Testifying on the bill was Anheuser Busch, Incorporated.