

HCS HB 468 -- PUBLIC SAFETY

SPONSOR: Higdon

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Crime Prevention and Public Safety by a vote of 12 to 3.

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

(1) Allows the Highway Patrol's Motor Vehicle, Aircraft, and Watercraft Revolving Fund, which is administered by the State Highway Patrol, to include money received for the maintenance of highway patrol vehicles, watercraft, watercraft motors, trailers, aircraft, and aircraft parts and specifies that the fund be used for the purchase, maintenance, and fuel costs of the items. Currently, the Highway Patrol's Motor Vehicle, Aircraft, and Watercraft Revolving Fund includes funds received from any source for the purchase of highway patrol vehicles, watercraft, watercraft motors, trailers, aircraft, and aircraft parts (Section 43.265, RSMo);

(2) Gives sheriffs or any other law enforcement officer immunity from any liability, civil or criminal, while conducting service of process at the direction of any court to the extent that the officer's actions do not violate clearly established statutory or constitutional rights that a reasonable person would have known (Section 57.095);

(3) Specifies that any non-elected chief law enforcement officer of any political subdivision, except in Kansas City, is subject to removal from office or employment by the appointing authority or political subdivision's governing body if the governing body issues a written notice to the chief whose removal is being sought no fewer than 10 business days prior to the meeting in which the removal will be considered; the chief has been given written notice of the governing body's intent to remove him or her and the notice includes specified information; the chief is given an opportunity to be heard before the board with any witnesses, evidence, and counsel of his or her choosing; and the board finds, by two-thirds vote, that there is just cause for the removal. Just cause exists when a chief is unable to perform his or her duties with reasonable competence or safety as a result of a mental condition, including alcohol or substance abuse; has committed any act, while engaged in the performance of his or her duties, that constitutes a reckless disregard for the safety of the public or another law enforcement officer; has caused a material fact to be misrepresented for any improper or unlawful purpose; acts in a manner for the sole purpose of furthering his or her self-interest or in a manner inconsistent

with the interests of the public of his or her governing body; or has been found to have violated any law, statute, or ordinance that constitutes a felony. Upon the satisfaction of the removal procedure specified, the chief must be immediately removed from his or her office; must be relieved of all duties and responsibilities; cannot be entitled to any further compensation or benefits not already earned, accrued, or agreed upon; and must be issued a written notice of the grounds for the removal within 14 calendar days (Section 106.273);

(4) Allows the governing board of any state college or university to enforce campus traffic regulations and the state's general motor vehicle laws through its campus police officers. The governing board is given the authority to establish traffic regulations governing traffic on its campus. The regulations must be codified, printed, and distributed for public use and adequate speed limit signs must be posted. Violations will have the same effect as the violation of municipal ordinances. The substitute specifies that motor vehicles operated on a campus are subject to the state's general motor vehicle laws, that the campus officers must be certified under Chapter 590, and that the officers have the same powers as other law enforcement officers certified under that chapter (Sections 174.700-174.712 and 544.157);

(5) Increases penalties for moving violations and traffic offenses occurring within an active emergency zone. An "active emergency zone" is defined as an area upon or around any highway that is visibly marked by emergency responders performing work for the purpose of emergency response and where an active emergency or incident removal is temporarily occurring.

The court must assess any person convicted of, found guilty of, or who pled guilty to a first moving violation or traffic offense within an active emergency zone a fine of \$35 in addition to any other fine authorized by law and \$75 in addition to any other fine authorized by law for a second or subsequent offense.

Upon the first conviction, finding of guilty, or plea of guilty by any person for a speeding violation or a passing violation, the court must assess the person a fine of \$250 in addition to any other fine authorized by law and \$300 for a second or subsequent violation. The driver of a motor vehicle must not overtake or pass another motor vehicle within an active emergency zone; any person violating this offense will be guilty of a class C misdemeanor.

A person commits the offense of endangerment of an emergency responder if, while in an active emergency zone with emergency responders present, the person:

- (A) Exceeds the posted speed limit by 15 m.p.h. or more;
- (B) Passes another vehicle;
- (C) Fails to stop for a flagman or an emergency responder or to obey traffic control devices for purposes of controlling the flow of vehicles through the active emergency zone;
- (D) Drives through or around an active emergency zone via any lane that is not clearly designated for motorists;
- (E) Physically assaults, threatens, or attempts to assault an emergency responder with a motor vehicle or other instrument;
- (F) Intentionally strikes or moves barrels, barriers, signs, or other devices for a reason other than to avoid an obstacle, emergency, or to protect the health and safety of another person;
or
- (G) Commits specified offenses that allow for the assessment of points under Section 302.302.

When no injury or death results, a person who pleads guilty to, or is convicted of, endangering an emergency responder must be assessed a fine of up to \$1,000 by the court and four points must be assessed to the operator's license. If a death or injury results, the person commits aggravated endangerment of an emergency responder and the court must assess a fine of up to \$5,000 if a responder is injured and up to \$10,000 if death resulted and 12 points must be assessed to the operator's license.

If a person commits endangerment or aggravated endangerment of an emergency responder as a result of a vehicle's mechanical failure or the negligence of another person or emergency responder, the person must not be cited for or convicted of the offense (Sections 302.302-304.894);

(6) Specifies that any state or local official or employee may accept or reject for recording or filing any document that he or she reasonably believes is not presented by a financial or lending institution and in good faith may be a spurious lien or document. A state or local official or employee will not be liable for accepting or rejecting for recording or filing the document, and he or she is not obligated to accept for recording or filing any lien against a federal, state, or local official or employee based on the performance or nonperformance of his or her official duties unless the lien or claim is accompanied by a specific order issued by a state or federal court authorizing the recording or filing of the lien or claim of lien.

The substitute specifies that no spurious lien or document will hold or affect any real or personal property longer than 35 days after being recorded or filed, unless within the 35 days a court action has commenced to enforce the lien or document or a notice of lis pendens stating that an action has commenced and notice has been recorded or filed in the office where the lien or document was recorded or filed. A person whose real or personal property is affected by a recorded or filed lien or document that the person believes is spurious may petition the court to show cause why the lien or document should be declared invalid. The order to show cause may be granted ex parte and must direct any lien claimant and any person who recorded or filed the lien or document to appear as a respondent before the court no less than 14 days but no more than 21 days after service of the order, to show cause why the lien or document should be declared invalid; state that if the respondent fails to appear then the lien or document will be declared invalid; and state that the court must award costs, including reasonable attorney fees, to the prevailing party. If, after the hearing, the court determines the lien or document is spurious, then the court must make findings of fact and enter an order declaring the lien or document to be spurious and enter a monetary judgment in the amount of the petitioner's costs, including reasonable attorney fees, against any respondent and in favor of the petitioner. However, if the court determines the lien or document is not spurious, the court must enter an order and enter a monetary judgment in the amount of any respondent's costs, including reasonable attorney fees, against any petitioner and in favor of the respondent. A "spurious document" is defined as any document that is forged or groundless, contains a material misstatement or false claim, or is otherwise patently invalid. A "spurious lien" is defined as a lien or claim of a lien that is not in a specific state or federal statute or a specific municipal ordinance; created, suffered, assumed, or agreed to by the owner of the property; or imposed by order, judgment, or decree of a state or federal court.

Currently, a person commits the crime of simulating legal process, a class B misdemeanor, if, with purpose to mislead the recipient and cause him or her to take action he or she delivers or causes to be delivered a request for payment of money on behalf of any creditor that in form and substance simulates any legal process issued by a state court or summons, subpoena, or other legal process knowing that the process was not issued or authorized by any court. The substitute increases the penalty to a class D felony if the victim is a law enforcement officer, peace officer, or first responder.

The bill creates the crime of filing a false lien, a class D felony. A person commits the crime if he or she files, attempts to

file, or conspires to file in any public or private record a false lien or encumbrance against the real or personal property of any person and has knowledge, or should have knowledge, that the lien or encumbrance is false or contains materially false, fictitious, or fraudulent statements or representations (Sections 429.371 - 429.379 and 575.130 - 575.133);

(7) Requires the prosecuting or circuit attorney to file a motion for the court-ordered sexually transmitted disease testing of a defendant charged with certain sexual offenses upon the request of the victim with notice given to the defense attorney. A motion can also be filed upon the prosecuting or circuit attorney's own initiative and for good cause shown with the proper notice given. The testing must occur within 48 hours of charging the defendant. The results of the testing and any follow-up testing must be released to the victim, the victim's parent or guardian if he or she is a minor, the prosecuting or circuit attorney, and the defendant's attorney as soon as practicable. All costs of the testing are to be paid by the Department of Public Safety (Section 566.135);

(8) Specifies that a person commits the crime of false identification to a law enforcement officer, a class B misdemeanor, if he or she falsely represents or identifies himself or herself as another person or as a fictitious person to a law enforcement officer upon a lawful stop or detention or upon an arrest for the purpose of evading the process of the court or the proper identification of the person if the false information is given while the officer is engaged in the performance of his or her duties and the person providing the false information knows or should have known that the person receiving the information is an officer. It is a defense to a prosecution if the person retracts the false statement or report before the officer or any other person took substantial action in its reliance.

The substitute changes the crime of making a false declaration with the purpose to mislead a public servant in the performance of his or her duty, a class B misdemeanor, to include a person who provides any verbal false statement regarding his or her identity which the person believes or knows not to be true (Sections 575.045 - 575.070);

(9) Specifies that when a person who has been granted conditional release from the Department of Corrections upon the determination by a court or jury that he or she is not likely to commit acts of sexual violence if released is being electronically monitored and remains in the county, city, town, or village where the releasing facility is located, the department must provide, upon request, the chief of the local law enforcement agency with access to the

information gathered by the global positioning system or other technology used to monitor the person. The information obtained must be closed and cannot be disclosed to any person outside the agency except upon an order of the court supervising the conditional release (Section 632.505);

(10) Extends to August 28, 2023, the provisions regarding the Internet cyber crime law enforcement task forces and the Cyber Crime Investigation Fund. These provisions expired on June 5, 2012 (Section 650.120); and

(11) Adds one active member of the Missouri Deputy Sheriff's Association to the Missouri Sheriff Methamphetamine Relief Taskforce (MoSMART). The taskforce member will serve a two-year term and be appointed by the Governor from a list of five names submitted by the association (Section 650.350).

PROPOSERS: Supporters say that this bill will eliminate problems relating to the serving process under the direction of the courts. The immunity provided in these provisions only applies in the performance of service of process and does not extend further.

Testifying for the bill was Representative Higdon.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say there currently are some protections in the law.

Testifying on the bill was Missouri Association of Trial Attorneys.