

HCS SS SCS SB 491 -- MISSOURI CRIMINAL CODE

SPONSOR: Justus

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Judiciary by a vote of 9 to 0.

This bill changes the laws regarding the Missouri Criminal Code. In its main provisions, the bill:

- (1) Changes the felony classification of specified criminal offenses;
- (2) Changes from the Department of Social Services to the Department of Health and Senior Services where a person reports elderly abuse (Section 197.1002, RSMo);
- (3) Adds a habitual offender to the list of offenders who are prohibited from being placed on electronic monitoring (Section 221.025);
- (4) Creates the offense of manufacturing a false identification, a class A misdemeanor. A person commits the offense if he or she possesses any means of identification for the purpose of manufacturing and providing or selling a false identification card to a person younger than 21 years of age for the purpose of purchasing or obtaining alcohol (Section 311.315);
- (5) Establishes a class E felony and a class D misdemeanor. The bill specifies that any unclassified felony or felony for which the maximum term of imprisonment is four years will be a class E felony and it will be a class D misdemeanor if the offense includes a mental state as an element of the offense and there is no authorized imprisonment (Sections 557.016 and 557.021);
- (6) Repeals the provisions requiring the court to give notice of the time and place of sentencing to the prosecuting attorney and law enforcement agency within whose jurisdiction the prosecution was initiated in all felony cases (Section 557.046);
- (7) Increases the fines for misdemeanors and felonies (Section 558.002);
- (8) Changes the laws regarding the offense of involuntary manslaughter in the first degree by only including a person who recklessly causes the death of another person (Section 565.024);
- (9) Specifies that a person commits the offense of involuntary manslaughter in the second degree, a class E felony, if he or she

acts with criminal negligence to cause the death of any person  
(Section 565.027);

(10) Changes the laws regarding the offense of assault (Sections 565.050 - 565.079);

(11) Changes the laws regarding the crime of harassment and separates it into harassment in the first or second degree (Sections 565.090 and 565.091);

(12) Changes the laws regarding the offense of child kidnapping and separates it into kidnapping in the first, second, or third degree (Sections 565.110 - 565.140);

(13) Allows the court, upon a finding of guilt for an offense of interference with custody, parental kidnapping, or child abduction, in addition to or in lieu of any sentence or fine imposed, to assess as restitution against the defendant and in favor of the legal custodian or parent any reasonable expenses incurred by the legal custodian or parent in searching for or returning the child (Sections 565.150 - 565.156);

(14) Changes the laws regarding the offense of abuse of an elderly person, person with a disability, or vulnerable person, the offense of filing a false elder abuse or neglect report, the offense of failure to report abuse or neglect of a vulnerable person, and the offense of filing a false vulnerable abuse report (Sections 565.184, 565.188, 565.222, and 630.162);

(15) Changes the laws regarding the offense of stalking (Sections 565.225 and 565.227);

(16) Changes the offense of invasion of privacy (Section 565.252);

(17) Changes the laws regarding the offense of sodomy (Sections 566.060 - 566.064);

(18) Changes the laws regarding the offense of child molestation (Sections 566.067 - 566.071);

(19) Specifies that the offense of sexual contact with a student includes any public or private K-12 school or on any school bus used by the school district. The student's consent to the sexual contact is not a defense to prosecution to these provisions (Section 566.086);

(20) Changes the laws regarding the offense of sexual misconduct and sexual abuse (Sections 566.093 - 566.100);

- (21) Changes the laws regarding the offense of sex with an animal (Section 566.111);
- (22) Changes the laws regarding the offense of sexual conduct with a nursing facility resident or vulnerable person (Sections 566.115 and 566.116);
- (23) Changes the laws regarding a persistent and a predatory sexual offender (Section 566.125);
- (24) Changes the laws regarding the offenses of prostitution, patronizing prostitution, promoting prostitution, and promoting travel for prostitution (Sections 567.010 - 567.120);
- (25) Specifies that a court cannot grant probation to a person who has previously been found guilty of an incest offense (Section 568.020);
- (26) Repeals a provision stating that Section 568.045 is to be known as Hope's Law (Section 568.045);
- (27) Changes the laws regarding the offense of arson (Sections 569.040 - 569.053);
- (28) Changes the laws regarding the offense of negligent burning or exploding to include a person who with criminal negligence damages property, woodlands, cropland, grassland, prairie, or marsh by starting a fire or causing an explosion or allowing a fire burning on lands in his or her possession or control onto the property of another (Section 569.065);
- (29) Raises or lowers the financial thresholds for certain offenses regarding tampering with computer equipment, property damage, stealing, alteration or removal of an item, counterfeiting, passing bad checks, fraudulent use of a credit or debit device, identity theft, food stamps, and institutional vandalism (Sections 569.097 - 569.100, 570.020, 570.057, 570.085, 570.103, 570.120, 570.125, 570.130, 570.180, 570.223, 570.400 - 570.408, and 574.085);
- (30) Specifies that Section 569.132 is to be known as the Crop Protection Act and classifies the offense of prohibited acts involving crops based on the amount of loss or damage to a crop (Section 569.132);
- (31) Specifies that the provisions regarding the offense of unlawfully entering or defacing a cave or cavern or polluting cave or subsurface waters do not apply to vertical or horizontal underground mining operations (Sections 569.135 and 569.137);

(32) Changes the laws regarding the offense of second degree robbery to include a person who in the course of the offense causes physical injury to another person (Section 570.025);

(33) Changes the laws regarding the offense of stealing (Section 570.030);

(34) Specifies that a person who appropriates cable television service cannot be deemed to have stolen that service under specified conditions (Section 570.039);

(35) Changes the laws regarding the offense of deceptive business practice to include promoting the sale of property or services by a false or misleading statement in an advertisement or advertising with the purpose not to sell or provide the property or services at the price he or she offered or in a quantity sufficient to meet the reasonably expected public demand or at all (Section 570.140);

(36) Changes the laws regarding the offense of financial exploitation of an elderly person or person with a disability (Section 570.145);

(37) Repeals the provisions regarding the offense of telephone service fraud (Section 570.190);

(38) Repeals certain provisions regarding the offense of library theft (Sections 570.200 and 570.215);

(39) Changes the laws regarding the offense of misapplication of funds of a financial institution (Section 570.217);

(40) Changes the laws regarding the offense of misappropriation of intellectual property (Section 570.225);

(41) Changes the laws regarding the offense of facilitating the theft of cable television service (Section 570.300);

(42) Specifies that the provisions of Chapter 572 do not prohibit authorized gambling activities under specified sections of the Missouri Constitution (Section 572.015);

(43) Changes the offense of public display of explicit sexual material to include a person who recklessly exposes, places, exhibits, or displays explicit sexual material in any location in a manner that it may be readily seen from a street, highway, public sidewalk, or the property of others or from the person's store or the exhibitor's store or property when items and material other than the explicit material are offered for sale or rent to the

public (Section 573.060);

(44) Repeals the provisions regarding video cassettes or other video reproduction devices that must be kept in a separate area and their sale or rental to persons under 17 years of age (Section 573.090);

(45) Prohibits a person from establishing a sexually oriented business if that person has been found guilty of offenses specified in the bill and less than eight years has elapsed since the date of conviction or release from confinement for the conviction, whichever is later (Section 573.531);

(46) Changes the laws regarding the offense of making a terrorist threat (Sections 574.115 - 574.125);

(47) Changes the laws regarding the offense of cross burning to include a person who burns or causes a cross to be burned with the purpose to frighten, intimidate, or cause emotional distress to any person or group of persons (Section 574.140);

(48) Changes the laws regarding persistent, chronic offenders (Sections 577.001 - 577.012, 577.023, and 579.170);

(49) Specifies when a person commits the offense of boating while intoxicated and the offense of boating with excessive blood alcohol content (Sections 577.013 and 577.014);

(50) Changes the laws regarding a person operating an aircraft while intoxicated or with excessive blood alcohol content (Sections 577.015, 577.016, 577.020, 577.021, and 577.037);

(51) Adds a phlebotomist to the list of individuals authorized to withdraw blood for the purpose of determining blood alcohol content (Section 577.029);

(52) Changes the laws regarding the offense of leaving the scene of an accident to include a vessel involved in an accident resulting in injury, death, or damage to another person's property and requires a law enforcement officer who investigates or receives information of an accident involving an all-terrain vehicle and the loss of life or serious physical injury to forward a written report of the accident to the Department of Public Safety and keep a record in his or her office (Section 577.060);

(53) Changes the laws regarding the offense of failure to report a shooting (Section 577.068);

(54) Changes the laws regarding the offense of littering (Section

577.070);

(55) Changes the laws regarding the offense of damaging state park property to include a person who removes, injures, disfigures, defaces, or destroys an object of archaeological or historical value within a state park (Section 577.073);

(56) Repeals the offense of refusing to immediately relinquish a party telephone line during an emergency (Section 577.105);

(57) Repeals the provision regarding the offense of operating a motor vehicle while younger than 16 years of age (Section 577.110);

(58) Repeals the provision regarding implied consent for a chemical test of an aircraft operator (Section 577.206);

(59) Repeals the provision regarding implied consent for a chemical test on a dead body (Section 577.211);

(60) Changes the laws regarding ignition interlock devices (Sections 577.599 - 577.612);

(61) Changes the laws regarding the offense of hazing (Section 578.365);

(62) Specifies the conditions under which a person commits the offense of sports bribery in the first and second degree (Sections 578.398 and 579.399);

(63) Changes the laws regarding the offense of prohibited acts against animal research and production facilities (Section 578.405);

(64) Adds an affirmative defense to the offenses of unlawful fishing, hunting, or trapping on private land and unlawful retrieval of large or small game when the premises were at the time open to members of the public and the person complied with conditions imposed on access or the privilege of remaining on the premises (Sections 578.520 and 578.525);

(65) Creates the offense of possession of not more than 10 grams of marijuana or any synthetic cannabinoid and specifies the penalty for this offense is a class D misdemeanor, unless the defendant has previously been found guilty of any offense related to controlled substances, in which case the offense is a class A misdemeanor (Section 576.015);

(66) Changes the amount of crack cocaine that is required before a person can be charged with first or second degree drug trafficking

from two grams to eight grams and increases the amount of crack that leads to an enhanced penalty from six grams to 24 grams (Sections 579.065 and 579.068);

(67) Adds the condition of "knowingly" to certain drug-related offenses (Sections 579.074, 579.078 - 579.086, 579.105, 579.150, and 579.155);

(68) Changes the laws regarding the offense of unlawful manufacture of drug paraphernalia (Section 579.076);

(69) Changes the laws regarding the offense of possession of methamphetamine precursors to include a person who possesses more than 24 grams of ephedrine or pseudoephedrine. The provision does not apply to any practitioner or product possessed in the course of legitimate business (Section 579.110); and

(70) Changes the laws regarding a victim of domestic assault or stalking (Sections 595.223 and 595.226).

The bill becomes effective January 1, 2017.

PROPOSERS: Supporters say that the house committee substitute on the senate bill removes all firearms provisions. It creates the class E felony and class D misdemeanor. Corrections to the penalties for intoxication related offenses were made and there is no longer a fiscal note attached to losing any transportation funds. Currently, the penalty for 35 grams or less of marijuana is a class A misdemeanor, the substitute retains this penalty, and creates a new offense of 10 grams or less of marijuana, which is a class D misdemeanor. This bill has been vetted for over 3 years in the legislature. This bill promotes public safety. Habitual drunk drivers will be treated as dangerous felons. This bill strengthens the laws protecting children. The restructuring of misdemeanor charges will make a difference in how individuals are charged and will be beneficial to our justice system.

Testifying for the bill were Senator Justus; Representative Cox; Jack Brady, President of the Missouri Bar Association; Dean Dankelson, Prosecuting Attorney for Jasper County; Missouri Association of Prosecuting Attorneys; Missouri Sheriff's Association; Missouri Association of Criminal Defense Lawyers; Missouri Retailers Association; Missouri Kids First; and Missouri Coalition Against Domestic and Sexual Violence.

OPPOSERS: There was no opposition voiced to the committee.