

HCS SB 621 -- JUDICIAL PROCEDURES

SPONSOR: Dixon (Cox)

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Judiciary by a vote of 9 to 2.

This bill changes the laws regarding judicial procedures.

JOINT COMMITTEE ON JUDICIARY AND JUSTICE (Section 21.880, RSMo)

Creates a permanent joint committee of the General Assembly to be known as the Joint Committee on Judiciary and Justice. The Committee shall consist of members of the General Assembly and three ex-officio members. The Committee is charged with reviewing all aspects of the state's justice system and making any recommendations for legislative change to the General Assembly. A permanent subcommittee of the Committee must be established to periodically review the criminal code. An advisory committee is established to aid the subcommittee, consisting of representatives of the Missouri Supreme Court, the Attorney General, and other individuals known to be interested in the improvement of the state's criminal laws.

REGIONAL JUSTICE INFORMATION SERVICE (Section 43.675)

Designates the Regional Justice Information Service as a criminal justice agency for purposes of 28 C.F.R. 20, and it must have all the powers necessary to carry out its purposes, including specified powers.

SPECIAL PROSECUTORS (Section 56.110)

Specifies that when a special prosecutor is appointed in any case, he or she may not be otherwise employed by a party other than the State of Missouri in any criminal case or proceeding in that circuit for the duration of that appointment and must be considered an appointed prosecutor for purposes of Section 56.360, RSMo.

COUNTY MUNICIPAL COURTS (Section 67.320)

Repeals and reenacts Section 67.320, RSMo, regarding the municipal court plan in the counties of Jefferson and Franklin updating the provisions regarding Jefferson County using the current population numbers.

GARNISHMENTS (Sections 408.040, 488.305, 525.040, 525.070, 525.080, 525.230, and 525.310)

Specifies that judgments must accrue interest on the judgment balance, which is the total amount of the judgment awarded on the day judgment is entered including, but not limited to, principal, prejudgment interest, and all costs and fees. Post-judgment payments or credits must be applied first to post-judgment costs, then to post-judgment interest, and then to the judgment balance. Clerk may charge and collect a surcharge of up to \$10 to be placed in a fund to be used to maintain and improve case processing and record preservation.

GUARDIANSHIPS (Section 475.072)

Specifies that by January 1, 2015, the Missouri Supreme Court must develop a form petition for the appointment of a guardian for a minor to be used in uncontested guardianship cases.

CRIMINAL CASE SURCHARGE (Sections 56.807 and 488.026)

Currently, each county treasurer must transfer a specified sum of money each month to the Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund for use by the fund. Beginning August 28, 2013, this bill requires that the county contribution be adjusted in accordance with the following schedule based on the retirement system's annual actuarial valuation report:

- (1) If the system's funding ratio is 120% or more, no monthly sum must be transmitted;
- (2) If the system's funding ratio is more than 110% but less than 120%, the monthly sum transmitted must be reduced 50%;
- (3) If the system's funding ratio is at least 90% and up to 110%, the monthly sum transmitted must remain the same;
- (4) If the system's funding ratio is at least 80% and less than 90%, the monthly sum transmitted must be increased 50%; and
- (5) If the system's funding ratio is less than 80%, the monthly sum transmitted must be increased 100%.

Currently, a \$4 surcharge is assessed in all criminal cases including any violation of a county ordinance and any criminal or traffic law including infractions for deposit into the Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund except under certain circumstances. The bill removes the provision that specifies that no surcharge will be assessed against a person who has pled guilty and paid his or her fine through a fine collection center and requires the individual to pay the \$4 surcharge.

JUDICIAL RESOURCES (Sections 476.001, 476.320, 476.330, and 476.340)

Current law states that it is the purpose of certain listed sections of law to provide the General Assembly and the Supreme Court with the mechanisms to obtain a comprehensive analysis of judicial resources and an efficient method for identifying problems and allocating personnel and resources within the judicial system. This act adds and repeals specific sections of law from this list of sections. This bill removes commissioners of the Supreme Court as members of the Judicial Conference. Under the bill, the Conference must meet every odd numbered year.

PRELIMINARY HEARINGS (Section 478.240)

The presiding judge is authorized to assign a judge to hear the trial of a felony case when he or she has previously conducted the preliminary hearing in that case if the defendant has signed a written waiver permitting the same judge to hear both the preliminary hearing and the trial.

THIRTEENTH JUDICIAL CIRCUIT (Section 478.610)

Authorizes the 13th Judicial Circuit to appoint or retain a commissioner pursuant to Section 478.003.

CRIMINAL CASE SURCHARGE (Section 488.2206)

Provides that a surcharge of up to \$10 may be collected in all criminal proceedings filed in the 31st Judicial Circuit if the surcharge was authorized by a county or municipal order, ordinance, or resolution. The moneys collected from the surcharge must be used for the costs associated with the construction, maintenance, and operation of any county or municipal judicial facility.

ELECTRONIC LOCATION DEVICES (Section 542.375)

Prohibits a governmental entity from obtaining the location information of an electronic device without a search warrant, except in certain specified circumstances. Any evidence obtained as a result of a violation of these provisions is inadmissible in a civil, criminal, or administrative proceeding and cannot be used in an affidavit of probable cause to obtain a search warrant. A person who violates these provisions is subject to a \$50 fine.

SEXUALLY VIOLENT PREDATORS (Sections 632.480, 632.483, and 632.484)

Specifies that a conviction in this state or any other jurisdiction

for a sexually violent offense can be considered when determining if a person is a sexually violent predator for purposes of confinement and treatment.

CYBER CRIME INVESTIGATION FUND (Section 650.120)

The bill adds the executive director of the Missouri Office of Prosecution Services, or his or her designee, to those individuals on the panel in the Department of Public Safety that awards grants to law enforcement agencies that are investigating Internet sex crimes against children. The bill adds assistant prosecuting and circuit attorneys to the list of individuals who are eligible to have their salaries paid through the grant. These provisions will expire on August 29, 2024.

REPEALS (Sections 550.040 and 550.060)

In any case in which the defendant is acquitted or in which a person must be committed or recognized to answer for a felony and no indictment is issued against the person, the costs must be paid by the state. The bill repeals the provision that requires the prosecutor or the person on whose oath the prosecution was commenced to be liable for all the court costs in any case where a person must be committed or recognized to answer for a felony and no indictment is issued against the person and prohibits the state or county from paying the costs in that type of case.

The repeal and reenactment of Sections 408.040, 488.305, 525.040, 525.070, 525.080, 525.230, and 525.310 of this act will become effective on January 15, 2015.

PROPONENTS: Supporters say that this bill removes commissioners of the supreme court as members of the judicial conference. The conference will meet every odd year, instead of the current every year.

Testifying for the bill was Senator Dixon.

OPPONENTS: There was no opposition voiced to the committee.