

HCB 9 -- CRIMINAL PROCEEDINGS

SPONSOR: McGaugh

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Rules - Legislative Oversight by a vote of 10 to 2.

PEACE DISTURBANCES FROM FARMING

This bill specifies that a person does not commit the offense of peace disturbance by creating a loud noise or a noxious or offensive odor if the noise or odor comes from raising, maintaining, or keeping livestock, or from planting, caring, maintaining, or harvesting crops or hay, or an engine of a vehicle or tractor while engaged in normal business-related activities (Section 574.010, RSMo).

This is the same as HB 73 (2017).

LEAVING THE SCENE OF AN ACCIDENT

This bill specifies that the offense of leaving the scene of an accident is a class D felony if a death occurs as a result of the accident (Section 577.060).

This is the same as HB 178 (2017).

LESSER INCLUDED OFFENSES

This bill specifies that a court is not obligated to charge the jury with respect to an included offense unless there is a rational basis for a verdict acquitting the person of the offense charged and convicting him or her of the included offense.

It is the intent of the legislature to reject and abrogate earlier case law relating to required lesser-included offense instructions including, but not limited to, the holding in State v. Jackson, 433 S.W. 3d 390 (Mo. banc 2014) and all case citing, interpreting, applying, or following that case. The bill specifies that the legislative intent is to apply these provisions retroactively (Section 556.046).

This is the same as HB 338 (2017).

FAILURE TO YIELD

This bill increases the penalty for the offense of failing to yield the right-of-way from \$200 to at least \$500 but not more than \$1,000.

If serious physical injury is caused, the penalty is changed from up to \$500 to at least \$1,000 but not more than \$3,000 and the court is required to order the suspension of the person's driving privilege for 90 days. Currently, the court has discretion to order the suspension, but is not required to.

If the violation caused a fatality, the penalty is increased from up to \$1,000 to at least \$5,000 but not more than \$10,000. Currently, the court may order the suspension of the person's driving privilege for six months. The bill requires the court to order the suspension of the person's driving privilege for at least six months but not more than one year, and the individual must be required to participate in and successfully complete a driver-improvement program approved by the Director of the Department of Revenue (Section 304.351).

This is the same as HB 539 (2017).

FAILURE TO APPEAR

Currently, if an individual charged with a moving traffic violation fails to appear in court as directed or without good cause fails to pay any fine or court costs assessed against him or her for the violation within the period specified or as otherwise approved by the court, the court is required to order the Director of the Department of Revenue to suspend the individual's driving privileges if the charges are not disposed of and fully paid within 30 days from the date of the mailing. This bill specifies that the court may order the department director to suspend the driving privileges at the request of the prosecutor having original jurisdiction (Sections 302.341 and 476.385).

This is the same as HB 623 (2017).

SEXUAL OFFENDERS

The bill provides that if an offender is determined to be a predatory sexual offender, the offender shall be sentenced to life without eligibility for probation or parole. Predatory sexual offenders shall not receive final discharge from parole or be furloughed by the Department of Corrections or any of its divisions. The bill specifies a two-stage process by which a second trial stage shall be held after the conviction of an offender to determine whether that offender is a predatory sexual offender.

The bill also creates a process for determining whether an offender is a prior or persistent sexual offender and creates provisions

regarding the sentencing of prior and persistent sexual offenders, including the provisions that an offender determined to be a prior sexual offender shall be sentenced to the authorized term of imprisonment one class step higher than the offense for which the offender was found guilty, and that an offender determined to be a persistent sexual offender shall be sentenced to the authorized term of imprisonment two class steps higher for which the offender was found guilty (Sections 557.036, 558.021, 558.046, 559.115, 559.117, 566.030, 566.032, 566.123, 566.124, and 589.414).

This is the same as HCS HB 415 (2017).

IGNITION INTERLOCK DEVICES

This bill specifies that exemptions for ignition interlock device requirements shall not be granted to individuals who are self-employed or who wholly or partially own or control an entity that owns an employer-owned vehicle.

The exemption by the court may also require that the person submit to continuous alcohol monitoring as an addition or alternative to an ignition interlock device (Section 302.441).

This is the same as HCS HB 875 (2017).

SCHOOL REPORTING

This bill repeals the requirement that schools report to law enforcement when a person is believed to have committed an act which if committed by an adult would be assault in the first, second, or third degree, sexual assault, or deviate sexual assault against a pupil or school employee, while on school property, including a school bus in service on behalf of the district, or while involved in school activities. In instances when the offense believed to have been committed is assault in the third degree and there is a written agreement between the superintendent and the appropriate law enforcement agency as to procedure for reporting the offense, the incident is required to be reported in accordance with that agreement.

Currently, when a pupil is discovered to have on his or her person, among the pupil's possessions, or placed elsewhere on the school premises any controlled substance or any weapon, the principal is required to report the discovery to the appropriate law enforcement agency immediately. This bill changes the requirement to being reported as soon as reasonably practical. Furthermore, the bill specifies that any time a teacher becomes aware of such possession, he or she shall report such incident to the principal as soon as reasonably practical.

The bill also adds the requirement that teachers report to the principal, and the principal report to the appropriate law enforcement agency and the superintendent, as soon as reasonably practical any instance when a pupil is believed to have committed any offense specified in subsection 2 of Section 160.261; while on school property, on any school bus in service on behalf of the school district, or while involved in school activities.

The bill provides civil immunity for school employees, superintendents, or their designees who provide information to law enforcement or juvenile authorities regarding an instance in which a pupil is believed to have committed an act which, if committed by an adult, would be assault in the third degree or assault in the fourth degree (Section 167.117).

This is the same as HB 727 (2017).

STATUTES OF LIMITATION

Currently, there are various time periods during which the statute of limitations for prosecutions is tolled. This bill adds to the various time periods any period of time after which a DNA profile is developed from evidence collected in relation to the commission of a crime and included in a published laboratory report until the date upon which the accused is identified by name based upon a match between the DNA evidence profile and the known DNA profile of the accused.

Currently, prosecutions for unlawful sexual offenses must be commenced within 30 years after the victim turns 18 unless the prosecutions are for specified offenses, in which case prosecutions may be commenced at any time. This bill removes the 30-year statute of limitations for prosecutions of unlawful sexual offenses, as defined in the bill (Sections 556.036 and 556.037).

This is the same as HB 1120 (2017).

COURT PROCEEDINGS

This bill revises provisions relating to victims and witnesses by applying such provisions to victims of or witnesses to a criminal offense rather than to victims of or witnesses to offenses committed under specific chapters. The bill also amends the definition of "vulnerable person" as it relates to Section 491.075, adds a definition for "personal information," as it relates to Section 491.630, and it adds provisions relating to the state's obligations with respect to a victim's or witness's personal information. It also adds a definition for "victim" and "witness"

as those terms relate to Sections 589.660 to 589.681.

The bill specifies that an order of protection issued by a court with jurisdiction over any criminal matter shall issue such order at the time of filing in every case involving a child victim, a felony offense under Chapter 565, any offense under Chapter 566, or any offense under Chapter 573.

Finally, the bill amends provisions relating to the "Address Confidentiality Program" (Sections 461.060, 491.075, 491.600, 491.630, 492.304, 544.250, 556.061, 589.660, and 589.663).

This is the same as HB 1155 (2017).

PUBLIC SAFETY

Currently, a law enforcement agency that violates certain requirements for the submission of a crime incident report and information may be ineligible to receive state or federal funds that would otherwise be paid to them. This bill removes such ineligibility as a potential consequence for such violations.

Currently, a law enforcement agency involved in federal forfeiture programs is required to report certain information to the Department of Public Safety and the State Auditor by January 31 of each year. This bill removes the requirement to report this information to the Department of Public Safety and moves the reporting deadline from January 31 to February 15.

This bill removes language relating to the information that must be included in the report and requires the report to consist of a copy of a certain form that must be submitted to the federal government.

The bill requires the approval of the Director of the Department of Public Safety for the expenditure of funds raised by the collection of fees for the usage of criminal history record information and specifies that a portion of those funds to be determined by the director will be made available to local and county law enforcement agencies by way of a grant (Sections 43.505, 43.530, and 513.653).

This is the same as SCS SB 414 (2017).

This bill also includes clean-up language for the criminal code revision from 2014. The specific sections are: Sections 252.069, 479.170, 488.029, 557.035, 565.076, 565.019, 566.010, 575.280, 577.001, 577.010, and 595.045.

PROPOSERS: Supporters say that the bill contains several bills filed by both political parties that concern criminal proceedings.

There is one bill included regarding predatory sexual offenders which could be deemed as somewhat controversial. There is no severability clause included in the bill language.

Testifying for the bill was Representative McGaugh.

OPPONENTS: There was no opposition voiced to the committee.