

HB 1633 -- LESSER INCLUDED OFFENSES

SPONSOR: Corlew

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Judiciary by a vote of 5 to 3. Voted "Do Pass" by the Rules-Legislative Oversight Committee by a vote of 7 to 2.

This bill specifies that a court shall be obligated to charge the jury with respect to an included offense only if it is established by proof of the same or less than all the elements required to establish the commission of the offense charged, there is a rational basis in the evidence for a verdict acquitting the person of the offense charged and convicting the person of the included offense, and either party requests the court to charge the jury with respect to a specific included offense.

Failure of the defendant or defendant's counsel to request the court to charge the jury with respect to a specific included offense shall not be a basis for plain-error review on direct appeal or post-conviction relief. It shall be the trial court's duty to determine if a rational basis in the evidence for a verdict exists.

This bill is the same as HCS HB 338 (2017).

PROPOSERS: Supporters say that the Supreme Court held that lesser included offenses should be instructed if there is a rational basis to acquit the defendant of the charged offense but to convict of the lesser offense. A rational basis makes more sense than there just having to be a basis to charge for the lesser offense.

Testifying for the bill were Representative Corlew and Mark A. Richardson, Missouri Association of Prosecuting Attorneys.

OPPOSERS: There was no opposition voiced to the committee.