

HCB 12 -- PROTECTION OF VULNERABLE PERSONS

SPONSOR: Franklin

COMMITTEE ACTION: Voted "To Introduce" by the Special Committee to Improve the Care and Well-Being of Young People by a vote of 7 to 4. Voted "To Return to the Committee of Origin" by the Rules-Legislative Oversight Committee by a vote of 13 to 0.

This bill modifies several provisions relating to the protection of vulnerable persons.

DIAPER BANK TAX CREDIT

Beginning July 1, 2019, this bill authorizes a tax credit equal to 50% of the donation to a diaper bank. The credit is nonrefundable and is limited to no more than \$50,000 per taxpayer, per year. The credit can be carried forward one year, but cannot be transferred or sold. The cumulative amount of credits is capped annually at \$500,000 per year.

The Department of Social Services will determine which nonprofit entities qualify as diaper banks and apportion among all diaper banks the cumulative amount of tax credits. A diaper bank is required to operate primarily to collect or purchase diapers or other hygiene products for infants, children, or incontinent adults and distribute such items to schools, health care facilities, governmental agencies, or other nonprofit entities for distribution to individuals free of charge. Each diaper bank will provide donor information to the department and the department will provide this information to the Department of Revenue.

The provisions of this bill will expire on December 31 six years after the effective date (Sections 135.800 and 135.621, RSMo).

These provisions are similar to HB 2613 (2018).

SCHOOL EMPLOYEE REQUIRED REPORTING

This bill removes the requirement that, when a student is believed to have committed an act, if committed by an adult, would be assault in the third degree or harassment on school property, including a school bus in service on behalf of the district, or while involved in school activities, the principal shall immediately report such incident to the appropriate law enforcement agency and the superintendent. The principal must still report to law enforcement, the superintendent, and the parents of any victim as soon as reasonably practical when a student commits any offense specified in Subsection 2 of Section 160.261.

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.

This 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 that, if committed by an adult, would be assault in the third degree or assault in the fourth degree (Sections 160.261 and 167.117).

These provisions are the same as HCS HB 1803 (2018).

CHILDREN EXPOSED TO CONTROLLED SUBSTANCES

Currently, a health care provider may refer a family to the Department of Health and Senior Services when a child may have been exposed to a controlled substance and the department is required to offer service coordination services, upon referral, to the family. This bill changes the department to the Children's Division within the Department of Social Services and removes the requirement that the department offer coordination services to the family (Sections 191.737 and 191.739).

These provisions are the same as HB 2164 (2018).

EMPLOYMENT REQUIREMENTS FOR INVESTIGATORS

This bill specifies that the employment requirements for a Children's Division worker assigned to investigating child abuse or neglect is possessing at least an Associate's degree or 60 credit hours with previous work experience (Section 207.087).

MO HEALTHNET BENEFITS

This bill extends MO HealthNet benefits for pregnant women who are receiving substance abuse treatment within 60 days of giving birth for no more than 12 additional months as long as the woman remains adherent with treatment. The Department of Mental Health and Department of Social Services must report to the House Budget Committee and Senate Appropriations Committee on compliance with federal cost neutrality requirements within 15 months of receiving

any necessary waiver (Section 208.151).

This provision is the same as HCS HBs 2280, 2120, 1486 & 1616 (2018).

CHILD ABUSE

This bill adds to the list of people responsible for the care, custody, and control of a child for purposes of child abuse: school personnel, contractors, or volunteers if the person has established a relationship with the child through the school or school-related activities, even if the alleged abuse or neglect by the school personnel, contractor, or volunteer occurred outside of school hours, off school grounds, or outside the scope of school functions (Section 210.110).

This provision is the same as HB 1976 (2018).

CUSTODY OF CHILDREN

This bill specifies that a child taken into the custody of the state or a child under the jurisdiction of the juvenile court shall not be reunited with a parent or placed in a home in which a parent or any person residing in the home has been found guilty of sexual trafficking of a child in the first degree.

Additionally, in any court proceedings relating to child custody, the court shall not award custody or unsupervised visitation, or visitation to a parent not granted custody, of a child to a parent if such parent or any person residing with such parent has been found guilty of or has pled guilty to sexual trafficking of a child in the first degree (Sections 210.117, 211.038, 452.375, and 452.400).

These provisions are the same as HB 2336 (2018).

CHILD ABUSE INVESTIGATIONS

This bill states that the Children's Division, juvenile officer, or prosecuting attorney may petition the court for an order directing a parent, guardian, or other person with care, custody, and control of a child who is the subject of an investigation of child abuse or neglect to present the child to a Children's Division worker for an assessment of the child's health, safety, and well-being. The court will enter the order if there is reasonable suspicion to suspect the child has been abused or neglected and the assessment is necessary to complete the investigation and doing so is in the best interest of the child. The petition and order may be made on an ex parte basis if it is reasonable to believe that providing

notice may place the child at risk for further abuse or neglect, or that the child may be removed from the state, or that the evidence will be unavailable.

Any person served with a subpoena, petition, or order specified in this bill is not required to file an answer, but may file a motion for a protective order. The court shall expedite a hearing on the motion and issue a decision no later than one business day after the motion is filed. Any information that may reveal the identity of a hotline reporter must not be disclosed.

The bill outlines the proper court to file a subpoena or order; the court must expedite all proceedings specified in this bill.

If a person knowingly violates any requirements under this bill, he or she will be guilty of a class A misdemeanor.

The time frame of the Children's Division to complete an investigation under certain circumstances is tolled from the date the division files a subpoena until the information is produced, the subpoena is withdrawn, or a court quashes the subpoena (Section 210.143).

These provisions are the same as HCS HB 2040 (2018).

CHILD ABUSE CO-INVESTIGATIONS

This bill requires a local law enforcement agency to assist Children's Division in the investigation of a report of child abuse or neglect (Section 210.145).

CHILD ABUSE AND NEGLECT REPORTS

This bill changes how reports of abuse or neglect are retained by the Children's Division, within the Department of Social Services. The bill allows the Children's Division to retain all information in several types of investigative reports, not just identifying information. The bill also extends the time period that the information will be retained for several types of reports (Section 210.152).

This provision is the same as HB 1610 (2018).

PUBLIC ASSISTANCE BENEFITS FOR FOSTER PARENTS

This bill states that if a person or a member of the person's household is receiving public assistance benefits, he or she cannot be a foster parent (Section 210.514).

FOSTER PARENT STANDING AND RIGHT OF INTERVENTION

This bill allows a foster parent of some foster children the right to intervene as a party upon motion (Section 210.790).

CONSENT TO ADOPTION

This bill allows a the juvenile court to receive the consent to a specific adoption or waiver of consent to adoption executed by a parent or named father of a child if such consent or waiver of consent is in the best interest of the child and was properly executed by the parent. This bill removes witness requirements for the specific consent (Section 211.444).

This provision is the same as HB 2504 (2018).

ADOPTION

This bill permits a guardian ad litem or a private attorney filing a petition for adoption to petition the juvenile court to terminate the rights of a parent or to receive specific consent to adopt or waiver of consent to adoption. This bill also repeals existing provisions relating to the form and manner of the consent to adopt or waiver of consent to adoption.

Currently, written consent to an adoption shall be required from the mother of the child and the presumptive or putative father or the child's current adoptive parents or other legally recognized mother and father. This bill requires written consent from all three categories of individuals. The court shall receive and acknowledge a properly executed consent to adoption when such consent is in the best interests of the child.

This bill permits out-of-state adoptive petitioners to appear by their attorney or by telephone or video conference rather than in person.

This bill removes a requirement that a court consider whether the adoption would be in compliance with the Uniform Child Custody Jurisdiction Act.

Finally, this bill permits adoptive parents and the birth parents of a child to enter into a written post adoption contact agreement to allow contact, communication, and the exchange of photographs after the adoption. The court shall enforce an agreement unless doing so would not be in the best interest of the child (Sections 211.444, 453.015, 453.030 and 453.080).

These provisions are the same as HB 2426 (2018).

TERMINATION OF PARENTAL RIGHTS

This bill says, for purposes of terminating parental rights, a parent has abandoned his or her child if the parent fails to maintain a substantial and positive relationship with the child for a period of six consecutive months out of the last 14 months (Section 211.447).

The Uniform Child Custody Jurisdiction and Enforcement Act

This bill requires family courts to use the procedures of the UCCJEA, which replaced the UCCJA in Missouri in 2009 (Section 487.110).

PROPOSERS: Supporters say that the provisions allowing a foster parent to intervene in a case is important because kids are the priority and we need all the necessary parties to give all the information that they can. Additionally, the provisions allowing a diaper bank tax credit will support those who need diapers and encourage taxpayers to become involved in philanthropy. The provisions that allow the termination of parental rights without a substantial and positive relationship is necessary because it will help speed up permanency for foster children. The provision that allows Children's Division to require a parent to produce a child for a well check is necessary for the safety of children, and it balances the protection of children with protection of parental rights.

Testifying for the bill were Representative Franklin and D. Scott Penman.

OPPOSERS: Those who oppose the bill say that the provisions that allow a foster parent to intervene in a case may be a violation of the Constitution and could also create ethical conflicts or privacy violations. Additionally, the provisions that allow the termination of parental rights without a substantial and positive relationship is too subjective to be applied fairly and appropriately. Furthermore, the provisions that allow Children's Division and law enforcement to search a home for a child without a warrant are unconstitutional.

Testifying against the bill were Paola Arzu Stange, Esq. and the CNS Corporation.

OTHERS: Others testifying on the bill outlined current issues facing Children's Division and offered suggestions of ways to address these issues. Additionally, others testifying on the bill described trauma-informed care and training for foster parents and

workers.

Testifying on the bill were Adrienne Culbert; Department of Social Services; and Patricia Carter.