

HCS SS SCS SB 966 -- CRIMINAL JUSTICE SYSTEM

SPONSOR: Rowden

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 9 to 1. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 13 to 0.

This bill modifies provisions relating to the administration of the criminal justice system.

PROBATION AND PAROLE BOARD

This bill renames the Missouri Board of Probation and Parole as the Parole Board. The board shall exercise independence in its decision making but operate cooperatively within the Department of Corrections and with other agencies, officials, courts, and stakeholders to achieve systemic improvement. This bill requires the board to adopt guidelines pertaining to: finite prison capacity for violent offenders, releasing supervision manageable cases, use of finite resources, supporting seamless reentry, setting appropriate conditions of supervision, and developing strategies for responding to violations. In addition, the bill requires the board to collect and publish data on parolees.

This bill creates "the Division of Probation and Parole" as a new division within the Department of Corrections.

The Division of Probation and Parole shall give administrative support to the Parole Board as well as assume supervision over all offenders subject to probation, parole, and supervision, and provide programs necessary to carry out its responsibilities. The director of the division will assume the role of appointing probation and parole officers in lieu of the chairman of the Parole Board, and issue warrants for the arrest of persons under the supervision of the division. This bill requires the Department of Corrections to establish a "community behavioral health program." Under the program, the department will collaborate with the Department of Mental Health to provide comprehensive community-based services for individuals under the supervision of the Department of Corrections who have serious behavioral health conditions.

The Department of Corrections must adopt a streamlined, validated risk/need assessment tool in order to evaluate the risk/need of an offender as it pertains to department programs. The bill modifies the parole review standards and instructs the Parole Board to conduct a risk/need assessment prior to an offender's hearing, and

allows the board to waive the hearing if the assessment indicates the offender may be paroled without an interview. However, a hearing shall be held if a victim or prosecuting attorney requests one. Also, special parole conditions shall be responsive to the assessed risk and needs of the offender.

This bill allows for a victim who has requested an opportunity to be heard by the Parole Board to receive notice that the board is conducting a risk assessment of the inmate.

This bill repeals a provision requiring an offender seeking parole to have achieved, or have made an honest good-faith effort to achieve, a high school diploma or its equivalent.

This bill authorizes community supervision centers to respond to violations and prevent revocations.

#### EARNED COMPLIANCE CREDIT

This bill gives the Division of Probation and Parole oversight over the awarding and supervision of earned compliance credits. The division may rescind earned credits if the offender is found ineligible for credits because of a violation which indicates a longer term of probation, parole, or conditional release is necessary. The bill requires offenders to complete restitution prior to final discharge by the division.

#### VICTIM COMPENSATION AND SAFE KITS

Currently, if a victim of a crime submits a claim for compensation and the claim is rejected for lack of substantial proof, the victim has 30 days to amend their claim before the claim will be dismissed with prejudice. Additionally, no victim of a crime may recover if the victim has been found guilty of two felonies within the last 10 years if one or both involved illegal drugs or violence. This bill repeals those provisions.

Currently, if a victim of a crime is from outside of Missouri, the victim is not eligible for compensation unless federal funds for compensation exist. This bill repeals that provision.

Currently, compensation for medical services may not exceed \$2,500 and compensation for out-of-pocket loss as a result of property seized by a law enforcement investigation may not exceed \$250. This bill repeals that provision and modifies the scope of "personal injury" to include emotional or mental harm.

Currently, no case may be awarded compensation if police records show a report was not issued within 48 hours. This bill repeals

that provision and allows victims of domestic violence, sexual offenses, and stalking to provide sworn statements in lieu of official records.

Currently, the Department of Revenue is not liable to make payments of compensation for any out-of-pocket expenses incurred more than three years following the date of the occurrence of the crime. This bill repeals that provision.

#### FORENSIC EVIDENCE

This bill modifies the requirements of law enforcement agencies as it pertains to the acquisition and storage of forensic examination evidence.

Currently, the Attorney General with the advice of the Department of Public Safety shall develop the forms and procedures for gathering evidence during and after the forensic examination under the provisions of this section. This bill provides requirements for such procedures and that they will be developed by the Department of Public Safety with the advice of the Attorney General.

The bill specifies the procedures for transmitting and storing examination evidence.

This bill delineates a "reported evidentiary collection kit" from an "unreported evidentiary collection kit." Unreported evidentiary collection kits are those which are collected from a victim who has not consented to participate in the criminal justice process.

This bill requires the Missouri State Highway Patrol to take possession of reported forensic examination evidence and secure such evidence for a period of five years.

#### ELECTRONIC MONITORING

This bill provides that a court may place a person on electronic monitoring with victim notification if the person is charged with, or has been found guilty of, violating an order of protection.

Electronic monitoring with victim notification is defined as a monitoring system that can monitor the movement of a person and immediately transmit the person's location to the victim and local law enforcement when the person enters a certain area.

The court only may place a person on electronic monitoring with victim notification if the protected person has provided his or her informed consent. The phrase "informed consent" is defined in the

bill.

The person being monitored must pay the costs associated with the monitoring unless he or she is determined by the court to be indigent. If determined to be indigent, the court clerk must notify the Department of Corrections and send a bill for the monitoring costs to the department. The department must establish a procedure to determine the portion of costs the indigent person is able to pay and must seek reimbursement of such costs.

An electronic alert is probable cause to arrest the monitored person for a violation of a protective order.

The Department of Corrections, Department of Public Safety, State Highway Patrol, circuit courts, and local law enforcement agencies are required to share information obtained via the electronic monitoring.

Immunity to liability is granted to suppliers of the electronic monitoring system for certain injuries associated with the use of the system.

This provision expires on August 28, 2024.

This provision is the same as SB 641 (2018) and similar to SB 99 (2017) and SB 678 (2016).

#### PEER SUPPORT SPECIALISTS

This bill prohibits peer support specialists who obtain information from law enforcement officers or emergency services personnel while billing in their capacity as a peer support specialist from disclosing any confidential information unless certain conditions, specified in the bill, are met. These conditions include threats of suicide, information relating to the abuse of spouses, children, or the elderly, admission of criminal conduct, and disclosure of certain protected information for which appropriate consent to disclose has been given.

There is no prohibition on communication between peer support specialists or any communication between the specialists and the supervisors or staff of an employee assistance program. There is also no prohibition on communication regarding fitness of an employee for duty between an employee assistance program and an employer.

This provision is the same as SB 616 (2018) and SB 385 (2017), and similar to HB 1411 (2018), and HCS HB 586 (2017).

## JAIL PAYMENTS

This bill authorizes the presiding judge of a judicial circuit to propose expenses reimbursable by the state on behalf of one or more of the counties in that circuit.

## LAW ENFORCEMENT

This bill eliminates the "Missouri Crime Prevention Information Center" and replaces it with the "Missouri Law Enforcement Assistance Program" which has the purpose of providing state financial and technical assistance to programs including reimbursement for overtime, increasing analytical capacity, and community policing.

## RECORDS

This bill repeals a provision requiring the deletion of uniquely identifying medical information within a criminal record prior to its being made available to qualified persons and organizations.

This bill authorizes automation of Department of Corrections records and makes some records available to law enforcement agencies and qualified persons and organizations as defined by the Health Insurance Portability and Accountability Act.

## KANSAS CITY LAW ENFORCEMENT

This bill increases the maximum base annual compensation of Kansas City police officers of various ranks, as specified in the bill.

This provision is the same as HB 2070 (2018).

## SUNSHINE LAW

This bill clarifies that any aggrieved person, the Attorney General, or the prosecuting attorney can seek judicial enforcement of the requirements of Sections 109.260, 109.265, and 109.270, RSMo, but such suits must be brought within one year after the violation was discovered.

The bill states that such claims must be brought in the circuit court for the county in which the agency has its principal place of business and that once a civil action has been brought, the custodian of any material that is the subject matter of the civil action cannot transfer custody or destroy the material until the court makes a ruling on the status of the material.

Upon a finding by a preponderance of the evidence that an agency

has knowingly violated Sections 109.260, 109.265, or 109.270, the agency will be subject to a civil penalty in an amount not less than \$500 but not more than \$10,000 and reasonable attorney's fees. If the court finds that there was a violation but it was not made knowingly, the court may impose a civil penalty in an amount not more than \$1,000 and reasonable attorney's fees. Any person who knowingly violates such sections commits a class B misdemeanor.

The bill also changes the penalty for a knowing violation of Sections 610.010 to 610.026, from up to \$1,000 to a range of not less than \$500 but not more than \$10,000 and reasonable attorney's fees. If the court finds that there was a violation but it was not made knowingly, the court may impose a civil penalty of not more than \$1,000 and reasonable attorney's fees. A person who knowingly violates such sections commits a class B misdemeanor.

This bill also creates within the Office of the Attorney General a Transparency Division, for the sole purpose of prosecuting violations of Chapters 109 and 610.

The bill states that if the action brought by the Attorney General's office creates a conflict of interest under the Missouri rules of professional conduct the state, all agencies of the state, and all officers of the state in their official capacity shall be deemed to have waived such actual or potential conflicts under the Missouri rules of professional conduct.

This bill allows the Attorney General to serve a civil investigative demand on any person whom the Attorney General believes may have information or evidence relevant to a suspected violation of Chapters 109 or 610.

This provision is the same as HCS HBs 2523 & 2524 (2018).

#### CRIME VICTIMS' COMPENSATION FUND

This bill allows for an amount up to \$750,000 to be appropriated annually from the crime victims' compensation fund to be deposited into the state forensic laboratory account.

This provision is the same as HB 1301 (2018).

#### SEXUAL CONDUCT IN THE COURSE OF PUBLIC DUTY

The bill also establishes the offense of sexual conduct in the course of public duty, which is a class D felony. A person commits the offense of sexual conduct in the course of public duty if he or she is a probation or parole officer or is an employee of or assigned to work in any jail, prison, or correctional facility and

he or she engages in sexual conduct with a witness, detainee, arrestee, or inmate, while he or she is on duty.

This provision is the same as HB 2520 (2018).

PROPOSERS: Supporters say that the Justice Reinvestment Task Force worked very hard on putting this legislation together. The purpose of the task force was to figure out a way to not have to build two new prisons, which the state will have to do if something does not change. This allows the Department of Corrections to implement alternatives and interventions to keep people from going through the prison system. There are many great parts of the legislation, including the electronic tracking of evidentiary collection kits and the electronic monitoring.

Testifying for the bill were Senator Rowden; Anne Precythe, Missouri Department of Corrections; Rick Gowdy, Missouri Department of Mental Health; Missouri Police Chiefs Association; Missouri Fraternal Order of Police; St. Louis Police Officers Association; Kansas City Fraternal Order of Police; Missouri Coalition Against Domestic and Sexual Violence; Missouri Association of Prosecuting Attorneys; Missouri Coalition for Community Behavioral Health Centers; County Commissioners Association of Missouri; Missouri Association of Counties; Gateway Foundation; City of Kansas City; Missouri Catholic Conference; Criminal Justice Ministries; eHawk, Inc.; and Joy Ledbetter, Empower Missouri.

OPPOSERS: There was no opposition voiced to the committee.