

HCS SB 333 -- PUBLIC SAFETY

SPONSOR: Rizzo (Wilson)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Crime Prevention and Public Safety by a vote of 6 to 2. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 5 to 1.

This bill modifies several provisions relating to public safety.
CAPITOL POLICE

Currently, the Director of the Department of Public Safety is responsible for appointing and employing Missouri Capitol Police officers. This bill moves such responsibility to the Missouri State Capitol Commission (Sections 8.007 and 8.177, RSMo). These provisions are the same as HCS HB 982, to provisions contained in HCS SB 21, HCS SB 468, and are similar to provisions contained in HCS SS SB 145 and HCS SCS SB 363 (2019).

PUBLIC SAFETY SALES TAX

This bill adds the city of Riverside to the list of cities authorized to propose a sales tax for the purposes of improving public safety. Such sales tax, if approved by the voters, shall not exceed a rate of 0.5% (Section 94.902).

This provision is the same as a provision contained in SB 21 and HCS HB 532 (2019).

THE "PUBLIC ACCESS TO AUTOMATED EXTERNAL DEFIBRILLATOR ACT"

This bill modifies provisions of the "Public Access to Automated External Defibrillator Act." Currently, persons or entities that have acquired an automated external defibrillator (AED) are required to ensure that expected users receive CPR and AED training from the American Red Cross, American Heart Association, or other equivalent training course, that the AED user activates the emergency medical services system as soon as possible, and that an AED placed outside of a health care facility has a physician review the protocol and training. This bill repeals these provisions and requires that a person or entity that acquires an AED to comply with all regulations governing placement of the AED; notify the local emergency medical services agency of the AED's existence, location, and type; ensure that the AED is maintained and tested to the manufacturer's guidelines; ensure that testing of the AED occurs at least biannually and after each use; and ensure that an inspection of all AEDs is made every 90 days.

Currently, a person who gratuitously and in good faith renders emergency care through the use or provision of an AED shall not be held liable for any civil damages unless acting in a willful and wanton or reckless manner. This bill extends this immunity to criminal penalties. Additionally, a person or entity that provides training, owns the AED, or is responsible for the site where the AED is located shall likewise not be held liable (Section 190.092).

This provision is the same as HB 1038, SB 423, a provision contained in HCS SS SB 145, and HCS SCS SB 363 (2019).

MEDICAL MARIJUANA

This bill removes medical marijuana from the definition of a "controlled substance" and from Schedule I of the controlled substances. Marijuana grown lawfully for medical use shall not be classified as a "noxious weed" and shall not be required to be destroyed. Trafficking offenses involving marijuana shall not include medical marijuana.

Additionally, this bill prohibits the sale of edible marijuana-infused products that are designed, produced, or marketed in a manner to appeal to persons under 18 years of age, including, candies, lollipops, cotton candy, or products in the shape of a human, animal, or fruit. Each increment of an edible marijuana-infused product containing 10 or more milligrams of tetrahydrocannabinols (THC) shall be stamped with a diamond containing the letters "THC" and the number of milligrams of THC in that increment. Any medical marijuana licensed or certified entity regulated by the Department of Health and Senior Services found to have violated this bill shall be subject to department sanctions, including an administrative penalty (Sections 195.010, 195.017, 195.805, 263.250, 579.065, and 579.068).

These provisions are the same as provisions contained in HCS SCS SB 6, SCS HB 240, and HCS SCS SB 363, and are similar to SB 335 (2019).

UPDATING THE SCHEDULES OF CONTROLLED SUBSTANCES

This bill specifies that if a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the Department of Health and Senior Services shall promulgate emergency rules to implement such changes within 30 days of publication of the change in the Federal Register, unless the department objects to such changes. When the department promulgates emergency rules under this bill, the rules may remain in effect until the legislature concludes its next regular session following the imposition of the rules.

Additionally, this bill updates the schedules of controlled substances in Missouri to mirror the most recent update to the schedules in 19 CFR 30-1.002 (Sections 195.015 and 195.017).

These provisions are the same as provisions contained in HCS SCS SB 6, SCS HB 240, and HCS SCS SB 363 (2019).

SUPERVISION OF CERTAIN OFFENDERS

This bill provides that if an offender subject to lifetime supervision moves to a different state under an interstate compact, such person may stay in the receiving state and the Parole Board shall defer to the standards and supervision of the receiving state. If the person ever returns to Missouri for more than 30 consecutive days, the offender shall be subject to the lifetime supervision laws of this state (Sections 217.735 and 559.106).

These provisions are the same as provisions contained in HCS HB

1151, HCS SCS SB 60, and HCS SCS SB 363 (2019).

FIRE PROTECTION SALES TAX

Currently, certain fire protection districts and municipalities having a municipal fire department are authorized to propose to the voters a sales tax not to exceed 0.25% for the operation of the fire protection district or municipal fire department. This bill increases the maximum rate to 0.5% (Section 321.242).

CRIMINAL COURT SURCHARGE

Currently, a court surcharge in all criminal cases for deposit into the DNA Profiling Analysis Fund shall expire on August 28, 2019. This bill extends the expiration of the surcharge to August 28, 2029 (Section 488.5050).

This provision is the same as SB 20, HCS HB 37, and to a provision in SS HCS HB 694, HCS SS SCS SB 291, and HCS SCS SB 363 (2019).

DISTRIBUTION OF HEROIN

Currently, the distribution of heroin is not distinguished from the distribution of most other controlled substances and is a class C felony. This bill provides that the distribution of any substance containing a detectable amount of heroin is a class B felony.

Additionally, this bill provides that the distribution of heroin is a "dangerous felony," as defined by statute. Any offender who has been found guilty of a dangerous felony and is committed to the Department of Corrections shall be required to serve a minimum prison term of 85% of the sentence imposed by the court or until the offender attains 70 years of age, and has served at least 40% of the sentence imposed, whichever occurs first (Sections 556.061 and 579.020).

This provision is the same as SB 93 (2019), SB 589 (2018), and SB 351 (2017), and to provisions in HCS SCS SB 6, HCS SCS SB 363, and SCS HB 240 (2019).

MANUFACTURE, DELIVERY, OR DISTRIBUTION OF DRUGS WITH DEATH RESULTING

This bill modifies the offense of murder in the second degree by adding language making a person who knowingly and unlawfully manufactures, delivers, or distributes a Schedule I or II controlled substance, excluding marijuana for medical use, and thereafter the controlled substance is the proximate cause of the death of another person who uses or consumes it. It shall not be a defense that the defendant did not directly deliver or distribute the controlled substance to the decedent (Section 565.021).

This provision is the same as SB 223 (2019) and to a provision contained in HCS SCS SB 6, SCS HB 240, SS SCS SB 37, and HCS SCS SB 363 (2019).

OFFENSES INVOLVING CRITICAL INFRASTRUCTURE FACILITIES

This bill creates new provisions of law relating to criminal offenses involving critical infrastructure facilities, as such term is defined in the bill.

A person commits the offense of willful trespass on a critical infrastructure facility if he or she willfully trespasses or enters

property containing a critical infrastructure facility without permission. The offense of willful trespass on a critical infrastructure facility is a class B misdemeanor. If it is determined that the intent of the trespasser is to willfully damage, destroy, vandalize, deface, tamper with equipment, or impede or inhibit operations of the facility, the person shall be guilty of a class A misdemeanor.

A person commits the offense of willful damage of a critical infrastructure facility if he or she willfully damages, destroys, vandalizes, defaces, or tampers with equipment in a critical infrastructure facility. The offense of damage of a critical infrastructure facility is a class C felony.

If an organization is found to be a conspirator with persons who have committed any of the offenses set forth in the bill, the organization shall be punished by a fine that is 10 times the amount of the fine attached to the offense (Section 569.086). This provision is the same as HCS HB 954 (2019) and is similar to SCS SB 293 and to a provision in SCS HB 113 (2019).

UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE BY CERTAIN PROVIDERS AND EMPLOYEES

Currently, unlawful possession of a controlled substance, except 35 grams or less of marijuana or any synthetic cannabinoid, is a class D felony. This bill adds an enhanced penalty if the defendant is an emergency care provider, a home healthcare employee, a hospice employee, an in-home care employee, a personal care assistant, or any other individual providing home health or personal care assistance services to patients. If such defendant knowingly and unlawfully possesses a controlled substance belonging to the patient or another member of the patient's household, the offense shall be a class C felony. This bill also provides that the offense of possession of flunitrazepam or gamma-hydroxybutyric acid is a class E felony (Section 579.015).

This provision is similar to a provision in HCS SCS SB 6, HCS SCS SB 363, and SCS HB 240 (2019).

TRAFFICKING OF CERTAIN DRUGS

This bill adds to the offense of trafficking drugs in the first degree knowingly distributing, delivering, manufacturing, producing, or attempting to do so one gram or more of flunitrazepam, any amount of gamma-hydroxybutyric acid, more than 10 milligrams but less than 20 milligrams of fentanyl or carfentanil, or any derivative thereof, or any combination thereof, or any mixture containing fentanyl or carfentanil, as a class B felony. Such offenses shall be a class A felony if it is the second or subsequent offense for flunitrazepam or gamma-hydroxybutyric acid, or the amount of fentanyl or carfentanil is 20 milligrams or more.

Additionally, this bill adds to the offense of trafficking drugs in the second degree knowingly possessing, purchasing, or attempting to do so less than one gram of flunitrazepam or more than 10

milligrams but less than 20 milligrams of fentanyl or carfentanil, or any derivative thereof, or any combination thereof, or any mixture containing fentanyl or carfentanil, as a class C felony. Such offense shall be a class B felony when the amount is 20 milligrams or more. Trafficking flunitrazepam shall be a class E felony if its is the first offense (Sections 579.065 and 579.068). These provisions are similar to HCS HB 239 and to provisions in HCS SCS SB 6, SCS HB 240, HCS SS SB 145, HCS SB 275, and HCS SCS SB 363 (2019), SCS SB 953 and HB 1254 (2018).

MEGAN'S LAW

This bill removes an exemption from registration on the Sexual Offender Registry when a registrant is no longer required to register.

This bill also removes sexual misconduct involving a child if it is a first offense and the punishment is less than one year, from Tier I of the registry. A first offense of sexual misconduct involving a child, whether a misdemeanor or felony, remains on Tier II of the registry. The bill also changes sexual abuse in the second degree, child molestation in the second degree as it existed prior to January 1, 2017, and sexual conduct with a nursing facility resident or vulnerable person in the first degree on Tier I of the registry from when the punishment is less than a year to if the offense is a misdemeanor. Additionally, the bill adds certain offenses to Tier I and certain offenses to Tier II.

These provisions are the same as provisions in HCS SCS SB 60, HCS SCS SB 363, and HCS HB 1151 (2019). These provisions are similar to HB 1033 (2019).

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

Currently, the Peace Officer Standards and Training Commission consists of the following members: three police chiefs, three sheriffs, one representative of a state law enforcement agency, two peace officers each with a rank not exceeding sergeant, one chief executive officer of a certified training academy, and one member of the public. These 11 members are appointed to the commission by the Governor from a list of qualified candidates provided by the Director of the Department of Public Safety.

This bill provides the Governor shall appoint three sitting police chiefs from a list of qualified candidates provided by the Missouri Police Chiefs Association Board of Directors. Additionally, the Governor shall appoint three sitting sheriffs from a list of qualified candidates provided by the Missouri Sheriffs' Association Board of Directors. Also, one of the peace officers with a rank not exceeding sergeant shall be employed by a municipality, and the other peace officer with a rank not exceeding sergeant shall be employed by a county.

Currently, the Director of the Department of Public Safety appoints a member of the commission to be the chairperson. This bill specifies that the Commission appoints a member to be the chairperson by a majority vote of the members. Finally, the

commission shall provide advice to the Director of the Department of Public Safety (Section 590.120).

This provision is the same as SB 501 and to provisions contained in HCS SS SB 145, and HCS SCS SB 363 (2019), and is similar to HB 1163 (2019).

PROPOSERS: Supporters say that there is a proposal to place on the ballot a tax increase for fire protection. Voters are supportive of the increase, but equipment is aging and needs to be replaced, and they don't want to put the districts in debt. Even a small increase in taxes can provide a lot of service and training, but it is difficult to keep up with demand without another increase.

Testifying for the bill were Representative Kidd for Senator Rizzo; the City of Kansas City; and Gary Reese.

OPPOSERS: There was no opposition voiced to the committee.