

HCS SCS SB 363 -- PUBLIC SAFETY

SPONSOR: Riddle (Anderson)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Crime Prevention and Public Safety by a vote of 8 to 0. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 9 to 0.

This bill establishes that the State Capitol Commission is responsible for employing staff and retaining contract services as necessary for the performance of the duties and purposes of the commission and the Capitol police force. The bill also establishes the Capitol Police Board, which is composed of the Governor, the Speaker of the House, the President Pro Tem, and the Chief Justice of the Missouri Supreme Court, or their designees, and the chair of the State Capitol Commission. The bill specifies the duties of the board (Sections 8.007, 8.111, 8.170, 8.172, 8.177, and 8.178, RSMo).

Currently, certain public and private qualified entities may enroll in the Missouri and Federal RAP Back programs and utilize the background check resources for applicants for employment or volunteer positions. This bill removes organizations and entities that may be privately owned and operated that provide care, care placement, or educational services for children, the elderly, or persons with disabilities as patients or residents from the existing background check provisions and creates new provisions that authorize such entities to enroll in the Missouri and Federal RAP Back programs and utilize such background check resources.

Finally, this bill authorizes the Department of Social Services and circuit courts to fingerprint applicants for purposes of adoptions, guardians, conservators, advocates and personal representatives over minors, incapacitated, elderly or disabled individuals. These fingerprints will be given to the Missouri Highway Patrol and FBI who will both conduct a background check of the individual fingerprinted. If either background check discovers any criminal history records, then all of those records will be made available to the entity that requested the background check (Sections 43.539, 43.540, and 43.548).

The bill also modifies the Public Access to Automated External Defibrillator Act.

The bill states that a person or entity that acquires an automated external defibrillator (AED) shall:

- (1) Comply with regulations regarding the placement of the AED;

(2) Notify an agent of the local EMS agency of the AED and the AED's location;

(3) Ensure that the AED is maintained and tested according to the guidelines set forth by the manufacturer;

(4) Ensure that the AED is tested at least biannually and after each use; and

(5) Ensure that an inspection is made of all AEDs at least every 90 days.

The bill removes provisions that AED users receive training from the American Red Cross or American Heart Association, that any person who uses an AED activates the emergency medical services system as soon as possible and that any person who has an AED for use outside of a health care facility must have a physician review and approve the clinical protocol for use of the AED.

The bill removes liability for a criminal penalty for any person who gratuitously and in good faith renders emergency care by use of an AED. The bill also removes liability for a criminal penalty for a person who provides AED training, the person who owns the AED, and the person who is responsible for the site where the AED is located (Section 190.092).

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).

Under this bill, 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 change within 30 days of publication of the change in the Federal Register, unless the department objects to such change. 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).

The bill also specifies that if an offender subject to lifetime supervision moves to a different state under an interstate compact, the person may stay in the receiving state and the Parole Board must 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 will be subject to Missouri's lifetime supervision laws (Sections 217.735 and 559.106).

This bill changes the chapter from Chapter 195 to Chapter 579, RSMo, relating to controlled substances offenses, for the class of circuit court proceeding costs for which a surcharge of \$60 shall be assessed.

Additionally, the bill extends the expiration date of the provisions of the bill to August 28, 2029 (Section 488.5050).

Under current law, 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 bill modifies the crime 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).

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 health care 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 (Section 579.015).

The bill adds to the offense of trafficking drugs in the first degree knowingly distributing, delivering, manufacturing, producing, or attempting to do so more than 10 milligrams but less than 50 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 and a class A felony when the amount is 50 milligrams or more.

Additionally, this bill adds to the offense of trafficking drugs in the second degree knowingly possessing, purchasing, or attempting to possess or purchase more than 10 milligrams but less than 50 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 and a class B felony when the amount is 50 milligrams or more (Sections 579.065 and 579.068).

This bill removes an exemption from registration on the Sexual Offender Registry when a registrant is no longer required to register and his or her name must be removed from the registry under the provisions of Section 589.414, RSMo.

The bill also removes sexual misconduct involving a child under Section 566.083, 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 under Section 566.083, whether a misdemeanor or felony, remains on Tier II of the registry. It 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 (Sections 589.400, 589.401 and 589.414).

This bill modifies the composition of the Missouri Peace Officer Standards and Training Commission. Currently, a voting public member is appointed by the Governor and is chosen from a list submitted to the Governor by the Director of Public Safety. This bill removes the requirement that the list be submitted by the director. The bill also changes how the chairperson of the commission is appointed, and the bill specifies that the commission shall provide advice and consent to the director concerning duties under Chapter 590, RSMo, (Section 590.120).

The bill requires a public water system using Internet-connected controls to create a plan that establishes policies and procedures for identifying and mitigating cyber risk within 36 months of the effective date of the bill. Public water systems must create valve inspection and hydrant inspection programs. The program must contain requirements as specified in the bill. Public water systems are required to submit an annual report to the Department of Natural Resources certifying compliance with the regulations regarding water quality, hydrant and valve inspections, and cyber security plans and policies, as specified in the bill.

These provisions do not apply to cities with a population of more than 30,000 or Jackson and St. Louis Counties (Sections 640.142, 640.144, and 640.145).

This bill contains an emergency clause for specified sections.

PROPONENTS: Supporters say that we were given a grace period to separate out public and private entities, and the grace period ends in August. They also mentioned that the Rap Back program is entirely voluntary.

Testifying for the bill were Senator Riddle; Justin McCullough, Missouri State Highway Patrol; and Missouri State Alliance of YMCA's.

OPPONENTS: There was no opposition voiced to the committee.