

HCS SS SCS SB 429 -- CRIME

SPONSOR: Gibbons (Stream)

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 9 to 0.

This substitute changes the laws regarding crime. In its main provisions, the substitute:

- (1) Adds any moving violation, as defined by Section 302.010, RSMo, to the list of infractions for which a court may order payment to the county law enforcement restitution fund;
- (2) Allows the Superintendent of the State Highway Patrol to direct members and other employees of the patrol to carry out any public safety duty or service authorized by the General Assembly;
- (3) Authorizes the patrol to conduct criminal background checks on gubernatorial appointees who are subject to Senate confirmation. Information received by the patrol must be kept confidential and cannot be disclosed to anyone other than the Governor or members of the Governor's staff as necessary to determine the appointee's qualifications;
- (4) Removes the requirement that the patrol superintendent reside in Jefferson City and be a uniformed member of the patrol;
- (5) Authorizes the patrol superintendent to enter into an agreement with the Missouri Gaming Commission regarding the enforcement of any law or regulation and conducting background investigations related to the laws of this state and the regulation of licensed gaming activities;
- (6) Requires, subject to appropriation, any retired employee of the patrol who is a witness in any official court proceeding at least 30 miles from his or her residence to receive a per diem up to \$100 and mileage and travel expense reimbursement;
- (7) Increases the amount an entity requesting criminal history record information not based on a fingerprint search must pay from up to \$5 per request to up to \$9. After January 1, 2010, the patrol superintendent may increase this fee up to an additional \$1 per year, not to exceed \$15. Any entity requesting criminal history record information based on a fingerprint search will be required to pay a fee of up to \$20 per request. If the request is for a concealed carry endorsement, the fee will be \$14;
- (8) Allows any state agency to require the fingerprinting of

applicants or employees in specified occupations for the purpose of positive identification and for receiving criminal history record information when determining the applicant's or employee's ability or fitness for a position;

(9) Authorizes additional compensation or compensatory time off for overtime, court time, and standby court time in excess of 40 hours for sergeants of the police department of the City of St. Louis. Currently, additional compensation and time off are authorized only for patrol officers and probationary patrol officers;

(10) Authorizes college and university police officers to enforce traffic regulations on college or university property. The officers will be required to be certified under the Peace Officer Standards and Training (POST) Program and will have authority under the fresh pursuit doctrine provisions in Section 544.157;

(11) Expands the protection of the elderly against financial exploitation;

(12) Requires the State Highway Patrol to develop evidentiary collection kits for the forensic examination of sexual assault victims and specifies that only licensed physicians and nurses are allowed to conduct the forensic exams. The costs cannot be charged to the victim;

(13) Creates the crime of possessing or having control of a restricted natural substance, a class A misdemeanor for the first offense and a class D felony for each subsequent offense. No person will be guilty of the crime if he or she owns, possesses, manages, or otherwise controls land on which a restricted natural substance naturally grows unless the person knowingly plants or cultivates the restricted natural substance, harvests the substance for any person to drink, inhale, or otherwise ingest, or allows or authorizes another person to drink, inhale, or ingest the substance;

(14) Specifies that it will be unlawful for any person to distribute, deliver, manufacture, produce, or cultivate a restricted natural substance or to attempt to or possess with intent to distribute, deliver, manufacture, produce, or cultivate a restricted natural substance. A person who commits any of these crimes will be guilty of a felony with a minimum of four years' imprisonment for the first offense and a minimum of 10 years for each subsequent offense;

(15) Adds Zopiclone, its salts, isomers, and salts of isomers to the list of Schedule IV controlled substances and Pregabalin to

the list of Schedule V controlled substances;

(16) Requires the Department of Health and Senior Services to develop a program, subject to appropriation, to monitor the prescribing and dispensing of all Schedule II through Schedule V controlled substances by all licensed professionals who prescribe or dispense these substances in Missouri. The dispenser is required to electronically submit to the department information for each prescription and the frequency of the submissions is specified. The department is allowed to issue a waiver to a dispenser who is unable to submit the required information electronically. If a waiver is obtained, a dispenser can submit the required information in paper format or by other approved means. All submitted prescription information is confidential. Exceptions to this requirement include violations of the law or breaches of professional standards which result in an investigation and the submission or the release of prescription information to authorized persons. The release of non-personal, general information is authorized for statistical, educational, and research purposes;

(17) Authorizes the department to contract with other state agencies or private vendors to implement the provisions of the Drug Monitoring Act and requires the department to develop an educational course about the act and, when appropriate, to work with associations for impaired professionals to ensure the intervention, treatment, and ongoing monitoring of patients who have been identified as addicted to substances monitored by the act;

(18) Specifies that the Amber Alert System is to aid in the location of abducted children rather than adults and defines "abducted child" as an individual younger than 18 years of age whose whereabouts are unknown and is reasonably believed to be a victim of kidnaping or an individual at least 14 years of age but younger than 18 years of age who would be reasonably believed to be a victim of child kidnaping if the person was younger than 14 years of age;

(19) Requires a photograph to be taken of an incarcerated individual upon release and made available to the victim upon his or her request;

(20) Allows offenders to appear before the Board of Probation and Parole by means of a video conference, rather than personal appearance, at the discretion of the board;

(21) Specifies that sheriffs and jailers are not required to take custody of a prisoner from an arresting officer until that prisoner has been examined by a physician or medical personnel if

he or she appears to be unconscious, suffering from a serious illness or injury, or is seriously impaired by drugs or alcohol. The prisoner will be responsible for the cost of the examination;

(22) Allows paid police officers of a paid police department to be eligible for workers' compensation benefits for an injury due to psychological stress;

(23) Makes provisions regarding boating while intoxicated consistent with provisions regarding driving while intoxicated;

(24) Increases the length of a driver's license suspension for failing to stop for a school bus from 90 to 120 days for the first offense and from 120 to 180 days for a second or subsequent offense;

(25) Specifies that any person convicted of criminal securities fraud will be fined up to \$1 million, be sentenced to a term of imprisonment not to exceed 10 years, or both. If the violation was committed against a disabled or elderly person, the offender will be fined up to \$50,000, be sentenced to a term of imprisonment not to exceed five years, or both;

(26) Requires rape crisis centers to maintain the confidentiality of individuals they serve;

(27) Allows a judge to order a probationer, as a condition of probation, to be vaccinated for Hepatitis A and B at his or her local health department with the costs to be paid by the probationer;

(28) Removes the provision of law which allows a judgment to be entered against the prosecutor for the trial costs if the defendant is acquitted of the prosecution or the case is dismissed;

(29) Specifies that any person who unlawfully distributes or delivers any controlled substance to any person whose injection, inhalation, or ingestion of the controlled substance causes his or her death will be guilty of involuntary manslaughter;

(30) Revises the definitions of "domestic assault offense" and "intoxication-related offense" to include any offense committed in another state or any federal or military offense which, if committed in Missouri, would be considered a domestic assault offense or an intoxication-related offense;

(31) Expands the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the first, second, or third degree to include corrections officers;

(32) Establishes "Ashley's Law" which creates the crime of transporting a child without parental consent when a person transports a child younger than 17 years of age out of the state, without the written consent of the child's parent or legal guardian, for the purpose of committing a crime with the child as the victim or a participant of that crime. The crime will be a class C felony;

(33) Prohibits certain sexual offenders from being physically present or loitering within 500 feet of or approaching, contacting, or communicating with any child younger than 18 years of age in any child care facility building or the real property comprising any child care facility when children younger than 18 years of age are present in the building unless the person is the parent, guardian, or custodian of a child in the building or on the grounds. Any person who violates these provisions will be guilty of a class A misdemeanor;

(34) Changes the term "stealing-related offense" to include robbery and clarifies that a person who has pled guilty to or been found guilty of two separate stealing offenses, which were committed on two separate occasions, will be guilty of a class B felony;

(35) Increases the penalty for the crime of possessing child pornography from a class C felony to a class B felony;

(36) Creates the crime of false identification if a prisoner or offender knowingly and with the purpose to mislead gives a false name, date of birth, or Social Security number when identifying himself or herself to a person who is an employee of a jail or correctional center. False identification will be a class C felony;

(37) Increases the penalty for the crime of making a false report from a class B misdemeanor to a class A misdemeanor;

(38) Creates the crime of disarming a peace or correctional officer if a person intentionally removes from or deprives the peace or correctional officer of the use of his or her firearm or other deadly weapon while the officer is acting within the scope of his or her official duties. The crime, a class C felony, does not include situations in which the person does not know or could not reasonably have known that the person was a peace or correctional officer or if the officer was engaged in felonious conduct at the time of the disarmament;

(39) Expands the crime of tampering with a judicial proceeding to include a person whose purpose is to influence the official actions of a state prosecuting or circuit attorney;

(40) Increases the penalty for the crime of assault on a police animal from a class C to a class A misdemeanor;

(41) Transfers all powers, duties, and functions of administering the testing of blood-alcohol content from the Department of Health and Senior Services to the Department of Transportation;

(42) Allows a court to order a person's vehicle impounded for up to one year as part of a penalty for driving while intoxicated if the vehicle is not jointly owned or leased. The offender will be responsible for all costs associated with towing and storing the vehicle. Before ordering impoundment, the court must examine whether the impoundment would result in the loss of employment, an inability to attend school, or an inability to obtain medical care for the offender or a member of the offender's family. An owner who refuses to pay the impoundment fees or who fails to retrieve the vehicle within 30 days after the impoundment period will be considered to have abandoned the vehicle. When the vehicle is being leased and the lease expires in less than a year, the impoundment period terminates at the conclusion of the lease;

(43) Prohibits the use or possession of an alcohol beverage vaporizer. Any substance that has been approved by the federal Food and Drug Administration as an over-the-counter or therapeutic drug product administered by an authorized medical practitioner is exempt;

(44) Establishes the Address Confidentiality Program, administered by the Secretary of State, to protect victims of domestic violence by establishing a designated address for victims and their minor children. Knowingly submitting a misrepresented application will be a class D felony;

(45) Prohibits an individual who is required to register on the sexual offender registry from owning or operating a sexual offender treatment facility for more than one person. Previously established facilities and those contracted through government bodies are exempt. Violation of this provision will be a class A misdemeanor;

(46) Requires the Peace Officer Standards Training (POST) Commission to make instruction available to peace officers on the investigation of crimes involving the use of a computer, the Internet, or both;

(47) Requires peace officers who make traffic stops to receive three hours of training within the law enforcement continuing education three-year reporting period. All continuing education

requirements will be waived for any peace officer who is activated for military duty;

(48) Expands the number of members on the POST Commission from nine to 11 by including two members who are peace officers at or below the rank of sergeant employed by a political subdivision. No more than two members of the commission can reside in the same congressional district or be employees of the same law enforcement agency;

(49) Allows the Director of the Department of Public Safety to establish rules to implement the POST Program;

(50) Requires crime victims to be paid up to \$250 from the Crime Victims' Compensation Fund to replace clothing, bedding, or other personal items seized by law enforcement as evidence of a crime;

(51) Establishes the Shawn Hornbeck Educational Reimbursement Program within the Crime Victims' Compensation Fund;

(52) Allows victims to be represented by an appointed person instead of appearing in person during the offender's parole and probation revocation hearings. The victim's appointee who honors any subpoena to testify in or attend a criminal proceeding is protected from discharge by any employer or from using vacation, personal, or sick leave to attend any criminal proceeding;

(53) Allows records and documents pertaining to internal investigations by a law enforcement agency on the fitness and conduct of a law enforcement officer employed by the agency used solely in connection with matters relating to the employment of the officer to remain confidential unless the records and documents are used in a criminal investigation;

(54) Allows the Department of Public Safety to establish rules recommending procedures for issuing missing/endangered person advisories;

(55) Revises the continuing education training requirements of 911 telecommunicators from 16 hours in a two-year period to 24 hours every three years;

(56) Specifies that the members of the Missouri Medal of Valor Board will be appointed by the Governor from a list submitted by the department director; and

(57) Creates the Reverend Nathaniel Cole Memorial Pursuit Reduction Grant in the state treasury to be administered by the department director. Any money appropriated or donated to the fund will be used to provide grants, in the amount of a 50%

match, to urban police departments who purchase real-time tagging and tracking pursuit management systems.

FISCAL NOTE: Estimated Cost on General Revenue Fund of More than \$1,496,540 to More than \$3,648,560 in FY 2008, More than \$1,068,436 to More than \$3,728,333 in FY 2009, and More than \$1,187,894 to More than \$3,827,588 in FY 2010. Estimated Income on Other State Funds of Less than \$683,198 to \$2,871,938 in FY 2008, Less than \$749,096 to \$3,445,713 in FY 2009, and Less than \$1,014,910 to \$3,791,324 in FY 2010.

PROPOSERS: Supporters say that victims face many challenges when reporting crimes of sexual assault. The bill eliminates some of those challenges, allows victims to access the Crime Victims' Compensation Fund, and prevents perpetrators from using public documents to further injure victims.

Testifying for the bill were Senator Gibbons; Missouri Coalition Against Domestic Violence; St. Luke's Health System; Missouri Sheriffs Association; and Office of the Secretary of State.

OPPOSERS: There was no opposition voiced to the committee.