

HCS HB 1493 & 1594 -- CRIME

SPONSOR: Bruns

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 7 to 0.

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

- (1) Allows the Superintendent of the State Highway Patrol to be a retired member of the patrol;
- (2) Prohibits law enforcement agencies from fingerprinting a juvenile older than 15 years and six months of age who is alleged to have violated a traffic ordinance unless the juvenile is certified as an adult;
- (3) Requires law enforcement agencies to forward certification papers to the central repository in cases where the juvenile has been certified as an adult;
- (4) Requires the municipal prosecuting attorney to notify the central repository of his or her decision not to file criminal charges on any charge referred to him or her;
- (5) Requires municipal court clerks to furnish the central repository with a record of all charges filed in cases where the central repository has an arrest record or fingerprint;
- (6) Allows a court to order law enforcement agencies or court marshals to fingerprint an individual at the time of any court appearance if the person has not been fingerprinted for an offense in which a fingerprint is required. The order must contain the offense, charge code, date of offense, and any other information necessary to complete the fingerprint card;
- (7) Expands the list of crimes that are reportable to the central repository;
- (8) Revises the process by which a qualifying entity may obtain a criminal record of a provider from the State Highway Patrol;
- (9) Revises the definitions of "domestic violence" and "family or household member" to include a person who is or has been in a continuing romantic or intimate relationship with the victim or adults having a child in common regardless of whether they have been married or lived together so that those terms are consistent with regard to all reported incidents of domestic violence in the Missouri Crime Index, domestic violence shelters, the reporting

of homicides and suicides related to domestic violence, and domestic violence crimes;

(10) Allows the executive officer of any public safety agency to enter into a mutual-aid agreement for reciprocal emergency aid and specifies that the Department of Public Safety will administer the state mutual-aid system. Any employee of a political subdivision or public safety agency responding to an emergency, disaster, or public safety need that is not declared by the Governor as an emergency is subject to the liability and workers' compensation provisions provided to him or her as an employee of the subdivision or agency. However, during a Governor-declared emergency, any employee responding will not be liable for civil damages or administrative sanctions for the failure to exercise the skill and learning of an ordinarily careful public safety professional in similar circumstances but will be liable for damages due to willful and wanton acts or omissions in rendering services;

(11) Prohibits political subdivisions from regulating emergency personnel with regard to their membership in political organizations and their rights to attend political meetings, express political views, vote, and run for elective or appointive office in any political subdivision that does not have jurisdiction over the person's place of residence. Political subdivisions are allowed to regulate the conduct of emergency personnel during work hours and while they are in uniform;

(12) Allows the St. Louis Board of Police Commissioners to develop a test to measure ordinary physical strength for employed commissioned police officers in its jurisdiction. However, the test will not be used as the sole factor in determining a police officer's continuing employment;

(13) Specifies that the terms "public employees" and "employee of the public entity" do not include offenders in the custody of the Department of Corrections or prisoners in the custody of a county or municipal jail for the purpose of state sovereign immunity protection. The term "custody" includes any prisoner or offender outside of a correctional center or jail for the purpose of work release. The substitute also abrogates any court decision issued after August 13, 1978, that interprets these terms to the contrary;

(14) Requires the Geographic Resources Center at the University of Missouri to identify any registered sexual offender who is in violation of the statute which prohibits residing within 1,000 feet of a school or childcare facility and to provide the State Highway Patrol with an annual study that includes the name of the person and his or her address for distribution to all state law

enforcement agencies;

(15) Authorizes state college and university police officers to enforce traffic regulations on college or university property. Motor vehicles on state college or university campuses must obey the general motor vehicle laws of the state. The board of regents or board of governors may establish traffic regulations, and moving violations will be treated in the same manner as a violation of a municipal ordinance. 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 in Section 544.157, RSMo;

(16) Establishes a procedure by which an ambulance district board member may be recalled from office by the registered voters of the member's election district. No board member can be recalled during the first or last 180 days of the member's current term or if a previous recall election was decided in the member's favor during the current term;

(17) Prohibits a political subdivision from imposing a fine or penalty on the owner of a pay telephone or on the owner of any property upon which a pay telephone is located for emergency service calls;

(18) 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 the person 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 the restricted natural substance, or allows or authorizes another person to drink, inhale, or ingest the substance;

(19) 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;

(20) Lowers the age for which the juvenile court does not have jurisdiction over a child who is alleged to have violated a state or municipal traffic ordinance or regulation from 15 years and six months of age to 15 years of age;

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

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

(23) Allows any offender to refuse parole that is conditioned on the performance of free work. Any county, city, person, organization, agency, or its employee who is charged with the supervision of free work or who benefits from its performance will be immune from any cause of action arising from his or her supervision of performance, except for an intentional tort or gross negligence;

(24) Specifies that gifts may be included as a person's assets for the purpose of determining the amount a prisoner is able to pay to reimburse the state for expenses incurred while the prisoner is incarcerated;

(25) Allows for the reimbursement of expenses associated with psychological stress of paid police officers of a paid police department who are Peace Officers Standards and Training (POST) certified;

(26) Establishes the Line of Duty Compensation Act which authorizes a claim to be filed with the Division of Workers' Compensation within the Department of Labor and Industrial Relations on behalf of a law enforcement officer, emergency medical technician, paramedic, aviation medical crew member, firefighter, juvenile justice employee, or Department of Corrections employee who was killed in the line of duty. The claim must be filed no later than one year from the date of the death by the spouse, dependent, or other specified person. The amount of compensation for the claim will be \$100,000, subject to appropriations, for deaths occurring on or after January 1, 2010. A burial benefit of up to \$10,000 will also be payable to the surviving spouse or the estate of an employee who is killed in the line of duty;

(27) Creates the Line of Duty Compensation Fund with moneys appropriated from general revenue and used solely for the purpose of the provisions of the Line of Duty Compensation Act. The division must annually submit by February 1 a report on the fund's expenditures to the Governor and General Assembly;

(28) Increases the penalty for commercial drivers who are convicted of operating a commercial motor vehicle in a willful or wanton disregard for the safety of persons or property while

having an alcohol concentration of .04% or higher or under the influence of certain substances from a class B to a class A misdemeanor;

(29) Requires commercial vehicle enforcement officers to meet the mandatory standards for basic training and licensure of peace officers. Officers who are employed and performing their duties on August 28, 2006, will have until July 1, 2010, to comply with the mandatory standards;

(30) Prohibits an individual with a temporary instruction permit or an intermediate driver's license from operating a motor vehicle while using a cell phone except for an emergency or when operating a motor vehicle on private property. Any person violating this provision will be guilty of an infraction punishable by a \$20 fine for the first offense and a \$50 fine for a second offense;

(31) Specifies that professional and amateur mixed martial arts will be governed by the Division of Professional Registration within the Department of Insurance, Financial Institutions, and Professional Registration and prohibits any contest in which a contestant in any amateur or professional full-contact karate or mixed martial arts contest is younger than 16 years of age;

(32) Requires any person or entity that accepts or purchases any form of copper or copper alloy as scrap, refuse, recyclable waste, or surplus building materials, except aluminum beverage cans, to register with the Department of Natural Resources. Dealers purchasing specified materials including copper or its alloys, brass, aluminum or its alloys, and surplus building materials must obtain a record of the seller's name, address, driver's license number, vehicle license plate number, vehicle's make and model, and the amount and type of metal purchased. Records must be kept for three years and made available to law enforcement officers upon request. Anyone violating these provisions will be guilty of a class C misdemeanor, and a subsequent violation will be a class B misdemeanor;

(33) Requires a retailer of cigarettes or tobacco products to have a retail tobacco license issued by the Division of Alcohol and Tobacco Control within the Department of Public Safety, pay an annual \$25 fee by May 1, and have a retail sales tax license before selling any products. The license must be continually and publicly displayed at the retailer's place of business;

(34) Establishes the Identity Theft Prevention Act which specifies the procedures for a person to place a security freeze on his or her consumer report. A consumer reporting agency will remove or temporarily lift a freeze upon the consumer's request

or if the consumer report was frozen due to a material misrepresentation of fact by the consumer. A consumer credit reporting agency must disclose in writing to the consumer a summary of his or her rights under Missouri law. Any person violating these requirements may be liable for any actual damages sustained by the consumer as a result of his or her negligence and the costs and attorney fees associated with any lawsuit;

(35) Establishes provisions for the prevention of and protection from security breaches. Any person or entity that owns or uses personal information concerning a Missouri resident in any form, whether computerized, paper, or otherwise, is required to disclose a breach of security to any resident whose personal information was wrongfully acquired. Notification must be made in the most expedient time possible without reasonable delay and may be given by written or electronic notice. Substitute notice may be given if the cost of providing notice would exceed \$250,000 or that the affected class of subject persons to be notified exceeds \$500,000 or the agency does not have sufficient contact information. All remedies, penalties, and authority granted to the Attorney General will be available for the enforcement of these provisions;

(36) Specifies that any person convicted of criminal securities fraud will be fined an amount not to exceed \$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 an amount not to exceed \$50,000, be sentenced to a term of imprisonment not to exceed five years, or both;

(37) Removes the requirement that Jackson County must reimburse the state for moneys received for the salary and benefits payable to the drug court commissioner in the 16th Judicial Circuit;

(38) Allows a judge to order the defendant in a municipal or circuit criminal case to pay costs as determined in Section 488.012;

(39) Allows counties not participating in the Missouri Nonpartisan Court Plan to collect a surcharge in civil cases to be used for courthouse security purposes;

(40) Allows a circuit judge to assess criminal court costs against a defendant if the defendant consents;

(41) Authorizes licensed ambulance services, emergency medical response agencies, and not-for-profit organizations which contract for ambulance services to establish peer review committees;

(42) Specifies that the statute of limitations for any robbery or arson offense will be five years;

(43) 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;

(44) 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;

(45) 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;

(46) Prohibits any person required to register as a sexual offender or any person who committed an offense in another state or any federal or military offense that, if committed in this state, would require the person to register as a sexual offender from being present in or loitering within 500 feet of any state park. A person violating these provisions will be guilty of a class A misdemeanor. A second or subsequent violation will be a class D felony;

(47) Adds any person who has pled guilty or nolo contendere to, been convicted of, or been found guilty of any offense committed in another state or any federal or military offense which, if committed in Missouri, would be a sexual offense to the list of individuals who are prohibited from residing within 1,000 feet of any public school, private school, or child care facility;

(48) 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;

(49) Prohibits certain sexual offenders from being present in or loitering within 500 feet of any real property comprising any public park or swimming pool. Any person who violates these provisions will be guilty of a class A misdemeanor. A second or subsequent violation will be a class D felony;

(50) Establishes Karra's and Jocelyn's Law which increases the penalty for the crime of child endangerment in the first degree to a term of imprisonment of not less than 15 years if an individual acts to create a substantial risk to the life, body, or health of a child by shaking a child younger than five years of age by any body part;

(51) Changes the crime of unlawful possession of a concealable firearm to unlawful possession of a firearm and removes the requirement that a felony conviction be for a dangerous offense in order to make possession of a firearm illegal;

(52) Increases the penalty for the crime of possessing child pornography from a class D felony to a class C felony. A second or subsequent offense will be increased from a class C felony to a class B felony;

(53) Expands the crime of making a false declaration to include providing any verbal false statement regarding a person's identity, which the person believes or knows not to be true, with the purpose to mislead a public servant in the performance of his or her duty;

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

(55) Increases the penalty for the crime of resisting or interfering with arrest, detention, or stop from a class D felony to a class C felony and clarifies that it applies to any arrest, stop, or detention for any warrant issued by a court of record or by a probation and parole officer;

(56) 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;

(57) Allows a court of competent jurisdiction to suspend or revoke the driving privileges of any person determined to have violated any state, county, or municipal law involving unlawful use or possession of drug paraphernalia while operating a motor vehicle;

(58) 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;

(59) Establishes the Shawn Hornbeck Educational Reimbursement Program to be administered by the Division of Workers' Compensation within the Department of Labor and Industrial Relations in conjunction with the Crime Victims' Compensation Fund to reimburse any victim of kidnapping and child kidnapping, who was confined for at least 180 days, for any expenses associated with any academic tutoring necessary to replace primary or secondary school studies lost during the time of confinement;

(60) Establishes the Law Enforcement Safety Act which allows records and documents regarding internal investigations by a law enforcement agency on the fitness and conduct of an officer employed by the agency used solely for employment matters of the officer to remain confidential unless the records and documents are used in a criminal investigation. The Social Security number, date of birth, address, or any other personal identifier of a law enforcement officer must be removed from any criminal case record in which the officer is not the defendant before the record is made available to the public unless the court determines that disclosures will not harm the officer or the officer's family. If a disclosure results in physical or financial harm to an officer or his or her family, the person disclosing the information will be guilty of a class A misdemeanor for the first offense and a class D felony for each subsequent offense;

(61) Extends the expiration dates for an additional four years for law enforcement related exceptions to the Open Meetings and Records Law, commonly known as the Sunshine Law;

(62) Expands the DNA profiling system by requiring any person 18 years of age or older who is arrested for a felony to provide a biological sample upon booking at a county jail or detention facility for the purpose of DNA profiling analysis;

(63) Allows grant money distributed by the Department of Public Safety to investigate Internet sexual crimes against children to be used to also fund the training of prosecuting and circuit attorneys and assistant prosecuting and circuit attorneys;

(64) Requires the removal of all emergency lights, sirens, and decals designating a vehicle as an emergency vehicle prior to selling or consigning the vehicle unless it is being sold directly to another public or private public safety agency;

(65) Creates the Reverend Nathaniel Cole Memorial Pursuit Reduction Grant to be administered by the Director of the Department of Public Safety. 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 which purchase real-time tagging and tracking pursuit management systems;

(66) Authorizes the Elevator Safety Board to adopt a code of regulations regarding the licensing of elevator mechanics and elevator contractors;

(67) Requires every railroad corporation that operates within the state to provide the Emergency Response Commission with a monthly report of all key shipments of hazardous substances transported by the railroad corporation through or within the state;

(68) Creates the Alcohol and Tobacco Enforcement Trust Fund to support the Division of Alcohol and Tobacco Control within the Department of Public Safety for enforcement of the liquor control and tobacco enforcement laws under Chapters 311 and 312 and Section 407.934;

(69) Requires any city with a population of 500,000 or greater to provide its law enforcement officers with firearms with a caliber of .40 or greater; and

(70) Allows any government entity or political subdivision to collect and share the identity of persons with the Federal Bureau of Investigation.

The provisions regarding the Line of Duty Compensation Act will expire six years from the effective date.

The provisions of the substitute regarding mixed martial arts contests contain an emergency clause.

FISCAL NOTE: Estimated Cost on General Revenue Fund of More than \$877,692 in FY 2009, More than \$3,412,620 in FY 2010, and More than \$3,422,086 in FY 2011. Estimated Effect on Other State Funds of a cost of \$110,806 to Unknown in FY 2009, a cost of \$167,349 to Unknown in FY 2010, and a cost of Unknown to an income of \$59,409 in FY 2011.

PROPOSERS: Supporters of House Bill 1493 say that the bill makes it a crime to provide false verbal information when identifying him or herself to a law enforcement officer.

Supporters of House Bill 1594 say that the bill increases the penalty for resisting arrest for a felony or situations in which

there is an injury.

Testifying for HB 1493 were Representative Bruns; Missouri State Troopers Association; and Missouri Police Chiefs' Association.

Testifying for HB 1594 were Representative Lipke; Missouri State Troopers Association; and Missouri Sheriffs Association.

OPPONENTS: Those who oppose House Bill 1493 say that there are concerns that the bill is too broad and covers all conversations with public servants.

Testifying against HB 1493 was American Civil Liberties Union of Eastern Missouri.