

SS SCS SB 714, 933, 899 & 758 -- SEXUAL OFFENSES

SPONSOR: Loudon (Bruns)

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 8 to 0.

This substitute changes the laws regarding sexual offenses. It its main provisions, the substitute:

(1) Requires registered sexual offenders to include any online identifiers they may have on the sexual offender registry and requires the State Highway Patrol to make this information available to certain businesses or organizations for the purpose of prescreening users;

(2) Requires a juvenile 14 years of age or older at the time of his or her offense to register as an adult sexual offender if the offense would be considered a felony under Chapter 566, RSMo, and is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241;

(3) Includes parental kidnapping in the definition of "dangerous felony";

(4) Increases the penalty for parental kidnapping to a class C felony if it is committed by detaining or concealing the whereabouts of a child between 60 and 119 days and a class B felony for committing the action for 120 or more days;

(5) Increases the age of a possible victim of sexual misconduct involving a child from 14 years of age to 15 years of age and specifies that attempting to commit sexual misconduct involving a child is a class D felony;

(6) Specifies that any person who has committed an offense in any other state or foreign country or under any federal, tribal, or military jurisdiction which if committed in this state would be a sexual offense involving a child cannot reside within 1,000 feet of a public or private school or a child-care facility or be present in or loiter within 500 feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity unless the offender is a parent, legal guardian, or custodian of a student present in the building;

(7) Creates the crime of age misrepresentation with intent to solicit a minor when a person knowingly misrepresents his or her age with the intent to use the Internet to engage in criminal

sexual conduct involving a minor. Any one violating this provision will be guilty of a class D felony;

(8) Specifies that a victim of the crime of promoting child pornography in the first degree must be or appear to be 13 years of age or younger and a victim of the crime of promoting child pornography in the second degree must be or appear to be 17 years of age or younger;

(9) Allows statements made by a child younger than 14 years of age regarding a pornography offense to be admissible in criminal proceedings;

(10) Specifies that any person who pleads guilty to, is found guilty of, or is convicted of promoting child pornography in the first degree will not be eligible for probation, parole, or conditional release for a period of three calendar years and any person who is found guilty of, pleads guilty to, or is convicted of promoting child pornography in the second degree will not be eligible for probation;

(11) Increases the penalty for the crime of possession of child pornography from a class D felony to a class C felony. Any person possessing more than 20 still images of child pornography; possessing one motion picture, film, videotape, videotape production, or other moving image of child pornography; or who has pled guilty to or been found guilty of a prior possession of child pornography offense will be guilty of a class B felony;

(12) Specifies that any property or material that constitutes child pornography must remain in the care, custody, and control of either the state or the court in any criminal proceeding;

(13) Specifies that it is not an affirmative defense to a prosecution for the crime of furnishing pornographic material to minors that the person being furnished the pornographic material is a peace officer masquerading as a minor;

(14) Revises the definition of "sexual assault" to include the act of enticement of a child or any attempt to commit the act;

(15) Requires any person convicted of, found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit abuse of a child when the abuse is sexual in nature and any person conspiring to commit certain sexual offenses to register as a sexual offender;

(16) Specifies that any person required to register as a sexual offender must register within three days of conviction, release from incarceration, or placement upon probation. Currently,

these individuals have 10 days to register;

(17) Requires any registered offender from another state who has a temporary residence in this state and resides more than seven days in a 12-month period to register for the duration of the temporary residency. Currently, these offenders must temporarily reside in the state for 14 days;

(18) Requires the offender registration form developed by the State Highway Patrol to include online identifiers used by the offender, palm prints, and a DNA sample if a sample has not already been obtained;

(19) Requires registered sexual offenders to notify the patrol within three days after a change to any information included on the registry. Currently, these offenders have 10 days after any change to update the registry;

(20) Increases the penalties for failing to register as a sexual offender;

(21) Requires any person required to register as a sexual offender to avoid Halloween-related contact with children, remain inside his or her residence between the hours of 5:00 p.m. and 10:30 p.m., post a sign at his or her residence stating "No candy or treats at this residence", and leave all outside residential lighting off after 5:00 p.m. on October 31 of each year. Any one violating this provision will be guilty of a class A misdemeanor; and

(22) Creates the Cyber Crime Investigation Fund to be funded by a \$3 million annual appropriation and used for the Department of Public Safety's grant program which provides assistance to certain law enforcement agencies investigating Internet sexual crimes against children.

The substitute contains an emergency clause regarding the statements of a child in pornography criminal proceedings, the crime of promotion of child pornography, and the crime of possession of child pornography.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Less than \$100,000 in FY 2009, FY 2010, and FY 2011. Estimated Income on Other State Funds of Unknown in FY 2009, FY 2010, and FY 2011.

PROPOSERS: Supporters say that the bill is a product of the Cyber Crime Summit and includes mandates from the federal government as a result of the Adam Walsh Act.

Testifying for the bill were Senator Loudon; State Highway

Patrol; and Brian Keedy, Office of Prosecution Services.

OPPONENTS: There was no opposition voiced to the committee.