

HCS HB 62 -- CRIME

SPONSOR: Lipke

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention by a vote of 11 to 1.

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

- (1) 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 and requires law enforcement agencies to forward a photograph and certification papers to the central repository in cases where the juvenile has been certified as an adult;
- (2) 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;
- (3) 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 and expands the list of crimes that are reportable to the central repository;
- (4) 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 the offense, and any other information necessary to complete the fingerprint card;
- (5) Revises the process by which a qualifying entity may obtain a criminal record of certain individuals from the State Highway Patrol;
- (6) Specifies that the maximum fine for all municipal ordinance violations in the City of Kansas City will be \$1,000 except for ordinances requiring compliance by an industrial user with any pretreatment standard or requirement;
- (7) Requires a photograph to be taken of an incarcerated individual prior to release and made available to the victim upon his or her request;
- (8) Specifies that a detainer will not be lodged against any person confined in a correctional facility until the Director of

the Department of Corrections receives a certified copy of a warrant and a written request by the issuing agency to place the detainer;

(9) Specifies that one member of the Board of Probation and Parole will be designated as vice-chairman;

(10) Allows offenders to appear before the board by means of a video conference, rather than personal appearance, at the discretion of the board;

(11) Removes the provision that requires the prosecuting attorney to appear in behalf of the Director of the Department of Revenue in circuit court cases or hearings reviewing administrative decisions regarding alcohol-related traffic offenses;

(12) Specifies that any person convicted of criminal securities fraud will be fined up to \$1 million, imprisoned for up to 10 years, or both;

(13) Creates the crime of failure to appear if a person knowingly fails to appear before any court or judicial officer as required. Failure to appear will be a class D felony if the criminal matter for which the person was released included a felony, a class A misdemeanor if the criminal matter includes a misdemeanor, or an infraction if the criminal matter includes only an infraction or a violation of a municipal ordinance;

(14) Specifies that the statute of limitations for an arson offense is five years;

(15) Specifies that the board will not have authority to supervise offenders who have pled guilty to or been found guilty of rape and sodomy since these offenders will no longer be eligible for probation;

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

(17) Specifies that a person who commits the crime of assault of a probation and parole officer will be guilty of a class A felony;

(18) Expands the crime of tampering with a judicial officer to include juvenile officers and deputy juvenile officers;

(19) Specifies that the term "stealing-related offense" will 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;

(20) Specifies that a person will be guilty of the crime of making a false declaration, a class B misdemeanor, if he or she provides any verbal false statement regarding his or her identity which the person knows to be untrue;

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

(22) 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 specifies that resisting or interfering with an arrest for a probation warrant, a parole warrant, a capias warrant, or a bench warrant where the warrant issued was related to a felony will be a class D felony;

(23) 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;

(24) Expands the crime of tampering with a judicial proceeding to include influencing the official action of a state prosecuting or circuit attorney;

(25) 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;

(26) Transfers the administration of the Crime Victims' Compensation Fund from the Division of Workers' Compensation within the Department of Labor and Industrial Relations to the Department of Public Safety;

(27) Includes pharmacists and pharmacies to the list of medical providers who must verify injuries of crime victims if requested by the department;

(28) 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;

(29) Allows the department to receive gifts and contributions to be credited to the fund for the benefit of crime victims;

(30) Allows a victim to be represented by an appointed person instead of appearing in person during an 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;

(31) Allows crime victims to receive, upon request from the Department of Corrections, a photograph taken of the defendant prior to release from incarceration;

(32) Specifies that the State Highway Patrol must develop and make available to appropriate medical providers evidentiary collection kits. The kits will be used by the provider to perform forensic examinations for the purpose of gathering evidence of a sexual offense. The Department of Public Safety must make payments to the providers to cover the charges of the forensic examination if the victim or the victim's guardian consents in writing to the examination and the report of the examination is made on a form approved by the Attorney General with the advice of the department. The payments may be made from money appropriated to the department or the Crime Victims' Compensation Fund if the victim is an eligible claimant;

(33) Specifies that circuit courts do not have to use a reasonable doubt standard when determining if an individual is a sexually violent predator; and

(34) Creates the Reverend Nathaniel Cole Memorial Pursuit Reduction Grant. 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. An applicant's eligibility will be determined by the Director of the Department of Public Safety.

FISCAL NOTE: Estimated Cost on General Revenue Fund of More than \$317,734 in FY 2010, More than \$358,817 in FY 2011, and More than \$366,583 in FY 2012. Estimated Cost on Other State Funds of \$207,458 in FY 2010, FY 2011, and FY 2012.

PROPONENTS: Supporters say that the bill has several provisions that clarify existing law and provide consistency with domestic

abuse definitions.

Testifying for the bill were Representative Lipke; Office of the Secretary of State; Missouri Coalition Against Domestic and Sexual Violence; and Missouri Police Chiefs' Association.

OPPONENTS: Those who oppose the bill say that it contains provisions that require incident reports involving police officers to be closed records which is in violation of the Open Meetings and Records Law, commonly known as the Sunshine Law.

Testifying against the bill were Missouri Press Association; Missouri Association of Criminal Defense Lawyers; Missouri Broadcasters Association; and American Civil Liberties Union of Eastern Missouri.