

CCS SS SCS HCS HB 62 -- CRIME

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

(1) Defines "unique biometric identification" as automated methods of recognizing and identifying an individual based on a physiological characteristic including, but not limited to, facial recognition, fingerprints, palm prints, hand geometry, iris recognition, and retinal scan and requires a law enforcement agency to capture that identification from a person at the time of his or her arrest if it is financially feasible for the agency to do so and to forward the information to the central repository of the State Highway Patrol (Sections 43.500 and 43.503, RSMo);

(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 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 (Section 43.503.3);

(3) 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 or to the circuit attorney (Section 43.503.5);

(4) 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 (Sections 43.503.6 and 43.506);

(5) Specifies that a person who knowingly uses or attempts to use a false or misleading degree from any institution of higher education or a degree from any institution of higher education in a false or misleading manner, in connection with admission to any institution of higher education or with any business, employment, occupation, profession, trade, or public office, will be guilty of a class C misdemeanor (Section 173.754);

(6) Allows state college and university police officers to respond to emergencies or natural disasters outside the boundaries of college or university property and to provide services if requested by the law enforcement agency with jurisdiction (Section 174.700);

(7) Requires the Department of Health and Senior Services to implement an education and awareness program regarding the

financial exploitation of the elderly (Section 192.925);

(8) Requires a photograph to be taken of an incarcerated individual prior to release and made available to the crime victim upon his or her request (Section 217.439);

(9) 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. Failure of the director to comply will not be the basis for dismissing the indictment, information, or complaint unless the court also finds that the offender has been denied the constitutional right to a speedy trial (Sections 217.450 and 217.460);

(10) Requires the Governor to designate one member of the Board of Probation and Parole as the vice-chairman (Section 217.665);

(11) Specifies that it will be an absolute defense to criminal prosecution or civil liability for the killing or injuring of a dog if the person was in reasonable apprehension of imminent harmful contact by the dog or was acting to prevent the imminent harmful contact against another person or under certain specified conditions if the person has complained about the dog to the appropriate authority on at least two occasions (Section 273.033);

(12) Specifies that the owner or possessor of a dog that bites, without provocation, any person on public property or lawfully on private property or any dog that causes property or livestock damage will be strictly liable for any damages suffered by the bitten person or any damage to property or livestock and must pay a fine of up to \$1,000 (Section 273.036);

(13) Specifies that any person convicted of two intoxication-related traffic offenses within a five-year period will be denied all driving privileges (Section 302.060);

(14) Specifies that any person who knowingly or intentionally produces, manufactures, sells, or otherwise distributes a fraudulent document intended to serve as a motor vehicle insurance identification card will be guilty of a class D felony and any person who knowingly or intentionally possesses a fraudulent card will be guilty of a class B misdemeanor (Section 303.024);

(15) Specifies that any person 21 years of age or younger who operates a moving motor vehicle while sending, reading, or writing a text or electronic message by means of a hand-held

electronic wireless communications device will be guilty of an infraction (Section 304.820);

(16) Specifies that any person who possesses or uses a beer bong or other drinking device used to consume similar amounts of alcohol or any large volume alcohol container holding more than four gallons of an alcoholic beverage on any river of this state or who possesses an expanded polypropylene cooler on or within 50 feet of any river in this state except in specified areas will be guilty of a class A misdemeanor. This section does not apply to the Mississippi, Missouri, or Osage rivers (Section 306.109);

(17) Specifies that any person younger than 21 years of age who purchases, attempts to purchase, or has in his or her possession any intoxicating liquor or who is visibly in an intoxicated condition will be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood (Section 311.325);

(18) Allows a person to expunge an alcohol-related offense from his or her record one year after turning 21 years of age if the person has not been convicted of any other alcohol-related offense. Currently, expungement is allowed after one year or upon reaching 21 years of age (Section 311.326);

(19) Requires any person who owns or licenses personal information of Missouri residents or conducts business in Missouri who owns or licenses personal information of a Missouri resident in any form to notify the affected consumer that there has been a breach of security following the discovery or notification of the breach. Any person maintaining or possessing records or data containing personal information on Missouri residents that the person does not own or license must also notify the owner or licensee of the information of any breach of security immediately following the discovery of the breach. The manner and description of the notice which must be provided in order to prevent violation of these provisions are specified. The Attorney General has the exclusive authority to bring an action to obtain actual damages for a willful and knowing violation and may seek a civil penalty not to exceed \$150,000 per security breach (Section 407.1500);

(20) Specifies that any person convicted of criminal securities fraud will be fined up to \$1 million, imprisoned for up to 10 years, or both and may be ordered to pay restitution for any loss plus interest at the rate of 8% per year from the date of the violation and an additional civil penalty of up to \$5,000 if the violation was committed against an elderly or disabled person (Sections 409.5-508 and 409.6-604);

(21) 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 (Section 544.665);

(22) Removes the requirement that court costs be assessed to the prosecutor in trespass cases, in certain capital cases, and in all other trials on indictments or information if the defendant is acquitted or the prosecution fails (Sections 545.050 and 550.040);

(23) Specifies that the statute of limitations for certain arson offenses will be five years (Section 556.036);

(24) Removes the requirement that a full record of the proceeding must be made by split-screen imaging and recording of the proceedings in the courtroom and the place of custody or confinement when a person in custody is required to be present in court (Section 561.031);

(25) Revises the definition of "domestic assault 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 (Section 565.063);

(26) Expands the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the first, second, and third degrees to include a corrections officer (Sections 565.081, 565.082, and 565.083)

(27) Expands the crime of tampering with a judicial officer to include a juvenile officer, deputy juvenile officer, state prosecuting or circuit attorney, and state assistant prosecuting or circuit attorney (Section 565.084);

(28) Specifies that the Attorney General may request the prosecuting attorney of Cole County to issue a subpoena to any witness who may have information for the purpose of oral examination under oath in the course of a criminal investigation of a sexual or pornography offense if the venue of the alleged criminal conduct cannot be determined (Sections 566.013 and 573.013);

(29) Prohibits certain sexual offenders from knowingly being physically present in 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 or on the grounds unless the offender is the parent, guardian, or custodian of a child in the building or on the grounds. Any person violating these provisions will be guilty of a class A misdemeanor (Section 566.148);

(30) Prohibits certain sexual offenders from knowingly being present in or loitering within 500 feet of any real property comprising any public park with playground equipment or a public swimming pool. Any person violating this provision will be guilty of a class D felony for the first offense and a class C felony for a subsequent offense (Section 566.150);

(31) Prohibits certain sexual offenders from serving as an athletic coach, manager, or trainer for any sports team in which a child younger than 17 years of age is a member. Any person violating this provision will be guilty of a class D felony for the first offense and a class C felony for a subsequent offense (Section 566.155);

(32) Specifies that any person who possesses amphetamine or methamphetamine in the presence or residence of a person younger than 17 years of age will be guilty of endangering the welfare of a child in the first degree (Section 568.045);

(33) Specifies that a person who steals or receives a stolen firearm, explosive weapon, livestock, or certain captive wildlife will be guilty of a class C felony. Any person who is convicted of stealing or receiving stolen livestock or captive wildlife when the value of the animal or animals stolen exceeds \$3,000 will be guilty of a class B felony and must serve 80% of his or her prison sentence before being eligible for probation, parole, conditional release, or any other early release by the Department of Corrections (Sections 570.030 and 570.080);

(34) 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-related offenses which were committed on two separate occasions within 10 years of the date of the occurrence of the current offense will be guilty of a class B felony (Section 570.040);

(35) Removes the requirement that an offender have knowledge of the content and character of obscene materials or pornographic items for the crimes of promoting obscenity in the first and second degrees, sexual exploitation of a minor, promoting child pornography in the first and second degrees, possession of child pornography, furnishing pornographic material to minors, and

coercing acceptance of obscene material (Sections 573.020, 573.023, 573.025, 573.030, 573.035, 573.037, 573.040, and 573.065);

(36) Expands the standard for the crimes of sexual exploitation of a minor, possession of child pornography, and public display of explicit sexual material from knowingly to knowingly or recklessly (Sections 573.023, 573.037, and 573.060);

(37) Expands the crime of resisting or interfering with an arrest, detention, or stop to include an arrest for a warrant issued by a court or a probation and parole officer. Anyone resisting or interfering with an arrest for a felony or a warrant issued for failure to appear on a felony case or for a probation violation on a felony case will be guilty of a class D felony (Section 575.150);

(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 (Section 575.153);

(39) Expands the crime of tampering with a judicial proceeding to include influencing the official action of a state prosecuting or circuit attorney, state assistant prosecuting or circuit attorney, or the Attorney General (Section 575.260);

(40) Specifies that a person will be guilty of the crime of misuse of official information if he or she knowingly or recklessly obtains or discloses information from any criminal justice information sharing system that contains individually identifiable information (Section 576.050.2);

(41) Allows a judge to order a person who pleads guilty to or is found guilty of an intoxication-related traffic offense to abstain from consuming or using alcohol as demonstrated by continuous alcohol monitoring or verifiable breath alcohol testing as a condition of probation (Section 577.023);

(42) Specifies that the owner or possessor of a dog that has previously bitten a person or domestic animal without provocation and bites any person on a subsequent occasion will be guilty of a class B misdemeanor. If the attack results in serious injury to any person, the owner or possessor will be guilty of a class A misdemeanor. If the attack results in serious injury to any

person and a previous attack also resulted in a serious injury to any person, the owner or possessor will be guilty of a class D felony. It will be a class C felony if the attack results in death (Section 578.024);

(43) Specifies that any person who removes an electronic or radio transmitting collar from a dog without the permission of the dog's owner with the intent to prevent or hinder the owner from locating the dog will be guilty of a class A misdemeanor and ordered to pay restitution for any lost or killed dog and any lost breeding revenues (Section 578.028);

(44) Prohibits the use or possession of an alcohol beverage vaporizer. Any substance that has been approved by the United States Food and Drug Administration as a therapeutic drug product, is contained in an approved over-the-counter drug product, or is administered lawfully by an order of an authorized medical practitioner is exempt from this provision. Anyone violating this provision will be guilty of a class B misdemeanor for the first violation and a class D felony for a subsequent violation (Sections 578.250 - 578.260);

(45) Prohibits any person who owns or operates a business as a live entertainment performance venue or receives over 50% of its gross annual income from the sale of recorded video entertainment from selling certain solvents to induce intoxication (Section 578.265.3);

(46) Allows an offender of certain misdemeanor sexual offenses to petition to exempt his or her name from the sexual offender registry if he or she meets current qualifications for the removal or exemption and was younger than 19 years of age at the time of the offense (Section 589.400);

(47) Specifies that any person who has committed an offense in any other state or foreign country or under federal, tribal, or military jurisdiction, which if committed in Missouri would be a sexual offense, will be guilty of a class C felony if the person fails to register as a sexual offender on a second offense (Section 589.425);

(48) Requires custodial interrogations of certain offenders to be recorded when feasible unless certain exceptions exist, requires law enforcement agencies to adopt written policies regarding interrogations, allows law enforcement agencies to record an interrogation in any circumstance with or without knowledge or consent of the suspect, and allows the Governor to withhold state funds from a law enforcement agency that fails to comply with the provisions of this section (Section 590.701);

(49) Specifies that circuit courts do not have to use a beyond-a-reasonable-doubt standard when determining if an individual is a sexually violent predator and requires any person who must register as a sexual offender to provide a fingerprint in addition to the current requirement of a blood or scientifically accepted biological sample for the purpose of DNA profiling analysis (Section 650.055);

(50) Establishes the Crime Laboratory Review Commission within the Department of Public Safety to provide an independent review of any state or local crime laboratory receiving state-administered funds. The commission must submit an annual report to the Governor on its activities and any suggestions to improve the quality management systems within the crime laboratories (Section 650.059);

(51) Allows law enforcement officers to inspect any record open to inspection by the State Veterinarian or the Department of Agriculture of any livestock sales or market licensee without prior notice or obtaining a search warrant during regular business hours to determine the origin and destination of any livestock handled by the licensee. Anyone violating or failing to comply with this provision will be guilty of a class A misdemeanor, and gross negligence or willful noncompliance by a licensee will result in the suspension or revocation of his or her license (Section 1);

(52) Changes all references in statute of "Criminal Records and Identification Division" or "Criminal Records Division" to "Central Repository" (Section 2);

(53) Creates the crime of promoting online sexual solicitation if the person or entity knowingly allows a web-based classified service owned or operated by a person or entity to be used by individuals to post advertisements promoting prostitution, enticing a child to engage in sexual conduct, or promoting sexual trafficking of a child after receiving notice by certified mail or facsimile transmission from the Attorney General or any prosecuting or circuit attorney that the advertisement is prohibited. Anyone promoting online sexual solicitation will be guilty of a felony, punishable by a \$5,000 fine for each day the advertisement remains posted after 72 hours of receiving the notice (Section 3); and

(54) Repeals provisions regarding the cutting requirements of a person owning a hedge fence situated along the right-of-way of any public road and certain provisions regarding the payment of costs in criminal cases (Sections 229.110, 550.050, 550.070, 550.080, and 550.090).

The bill contains an emergency clause for the provisions regarding a judge ordering certain individuals to continuous alcohol monitoring or verifiable breath alcohol testing as a condition of probation and the repeal and re-enactment of Section 577.029.