

HCS HB 187 & 235 -- COURT PROCEDURES

SPONSOR: Stevenson (Flook)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 7 to 5.

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

- (1) Repeals the Uniform Child Custody Jurisdiction Act and establishes in its place, the Uniform Child Custody Jurisdiction and Enforcement Act. The act specifies the procedures, priorities, and factors to be considered in initial custody jurisdiction determinations, continuing jurisdiction determinations, modification of custody determinations, and emergency orders. Family access orders may be filed relating to establishment or modification of custody or visitation including, but not limited to, dissolution, modification, third-party visitation, or paternity;
- (2) Extends the expiration date of the Statewide Court Automation Fund fee from September 1, 2009, to September 1, 2019, and allows the Court Automation Committee to continue to function until September 1, 2021;
- (3) Exempts a tenant from liability for rent payments during the remainder of the term of the lease agreement when his or her residence is destroyed by an act of God or other natural or man-made disaster unless the tenant caused the disaster;
- (4) Removes the certified mail requirement for service of summons in landlord tenant actions and replaces it with a regular mail requirement;
- (5) Removes the 30-day provision regarding court summons and requires a defendant to appear within 10 days. Currently, a court summons requires a defendant to appear before an associate circuit judge no less than 10 days nor more than 30 days from the date the summons was delivered;
- (6) Allows, beginning January 1, 2010, a corporation to file a corporate registration report on a biennial basis and to change the month of its corporate registration report by designating the desired month and paying an additional \$20 fee. Corporations incorporated in an even-numbered year may only file a report in an even-numbered year, and corporations incorporated in an odd-numbered year may only file a report in odd-numbered years. The fee for filing the biennial report will be \$80 if filed in a written format and \$30 if in an electronic format. Any

corporation filing a biennial report must maintain the registration for two years, but may choose to file an annual registration in subsequent years. The Secretary of State is allowed to collect an additional \$10 fee for each biennial corporate report to be credited to the Secretary of State's Technology Trust Fund Account;

(7) Authorizes the Secretary of State to charge a \$45 fee for a corporate filing of the original articles of organization in an electronic format;

(8) Changes the deadline when the Secretary of State may commence a proceeding to dissolve a corporation for failing to deliver its corporate registration report to within 90 days after it is due. Currently, the Secretary of State may commence a proceeding if the report is not delivered within 30 days after it is due;

(9) Allows the Secretary of State to administratively cancel the articles of organization of limited liability companies and limited liability partnerships if the period of duration on the articles expires and the company or partnership does not amend the articles in a timely manner. The Secretary of State may rescind a cancellation under certain circumstances;

(10) Allows anyone 18 years of age or older who was found incompetent under Section 632, RSMo, by admission either voluntary or involuntarily into a mental health facility, to petition the probate court for a removal of the disqualification to purchase, possess, or transfer a firearm. Individuals must prove that they no longer suffer from the condition that rendered them incompetent and that they pose no danger to themselves or others;

(11) Reclassifies all state court commissioners to associate circuit court judges after January 1, 2010, and transfers six newly reclassified state court commissioners to different judicial circuits;

(12) Allows drug court commissioners to serve as family court commissioners if needed and available and appointed by a majority of the circuit court judges;

(13) Removes Taney County from the 38th Judicial Circuit and creates the 46th Judicial Circuit to be comprised of Taney County beginning January 1, 2011;

(14) Allows the required annual report of the Judicial Finance Commission to be combined with any other annual report prepared by the Missouri Supreme Court or the Office of State Courts

Administrator if it is distributed to the required parties;

(15) Changes certain caseload reporting requirements for municipal and associate circuit court judges;

(16) Adds an additional \$3 fee to all cases to be deposited into the circuit clerk's preservation fund. Two dollars is to be retained by the clerk and used for record storage and public access to records, and \$1 will be forwarded to the Secretary of State for additional record preservation;

(17) Allows providers of targeted case management clients in the Division of Developmental Disabilities within the Department of Mental Health to be treated as agents of the division;

(18) Allows the costs and expenses related to the prosecution of a suit by an indigent person to be waived without motion and court approval if the person has enlisted the assistance of a law student legal aid clinic to represent him or her;

(19) Removes the provision that allows judges to appoint a nonboard-certified court reporter in the absence of an official court reporter due to illness for up to six months; and

(20) Requires circuit clerks to remove any information from court records filed after January 1, 2010, that could be used to identify or locate the victim of a sexual crime.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$634,186 in FY 2010, \$1,160,991 in FY 2011, and \$1,922,898 in FY 2012. Estimated Income on Other State Funds of \$141,958 in FY 2010, \$266,780 in FY 2011, and \$100,000 in FY 2012.

PROPONENTS: Supporters of House Bill 187 say that Missouri is one of only four states that has not adopted the changes to the Uniform Child Custody Jurisdiction and Enforcement Act. Currently, Missouri can be a haven for parents who kidnap their children and take them to Missouri in direct violation of a court order. Priority should be to protect families first and foremost which is accomplished in the bill.

Supporters of House Bill 235 say that the bill will extend court automation enabling public services like Casenet to continue. Eliminating court automation would lead to information taking months to get to the people who need it.

Testifying for HB 187 were Representative Flook; Larry Swall; and Missouri Coalition Against Domestic and Sexual Violence.

Testifying for HB 235 were Representative Smith (150); Missouri

Bar; Dan O'Hearn, Missouri Judicial Commission; Office of State Courts Administrator; and Phil Wright, Associate Circuit Court Judges and Probate Judges.

OPPONENTS: There was no opposition voiced to the committee.