

SS HCS HB 481 -- COURTS AND JUDICIAL PROCEEDINGS

This bill changes the laws regarding courts and judicial proceedings. In its main provisions, the bill:

- (1) Allows the county commission in third and fourth classification counties to appoint the county surveyor if no qualified candidate has filed for the office by the filing deadline in the general election when that office would have been on the ballot and the required notice in Section 115.345, RSMo, has been published in at least one newspaper of general circulation in the county (Section 60.010);
- (2) Raises the maximum fine for all municipal ordinance violations in the City of Kansas City from \$500 to \$1,000 except for ordinances requiring compliance by an industrial user with a pretreatment standard or requirement (Section 82.300);
- (3) Allows the City of Kansas City to adopt ordinances to authorize the city building official or his or her representative to petition the circuit court in the county in which a vacant nuisance building or structure is located for the appointment of a receiver to rehabilitate, demolish, or sell the building or structure to a qualified buyer (Section 82.1026);
- (4) Requires the St. Louis City Police Department to have no more than five members with the rank of lieutenant colonel and other ranks and number of members within each rank as the Board of Police Commissioners deems necessary and requires members of the St. Louis City reserve police force to be retired city officers and gives them the same powers as regular officers (Sections 84.150 and 84.175);
- (5) Authorizes an additional county collector fee of 5% on all moneys collected from delinquent and back taxes in the counties of Jackson and St. Louis which can be added to the tax bill and collected accordingly (Section 141.160);
- (6) Establishes a tuition and fee waiver program beginning with the 2010 fall term for incoming Missouri resident college freshmen who have been in foster or residential care at certain times (Section 173.270);
- (7) Specifies that the state will no longer require families receiving Temporary Assistance for Needy Families (TANF) benefits to assign the right to receive any pre-existing child support arrearages occurring before the family received TANF benefits. Families will continue to assign child support arrearages that become due while they receive temporary assistance (Sections 208.040 and 208.055);

(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. 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);

(9) Designates the portion of Interstate 64/U. S. Highway 40 from the McClausland/Skinker interchange east to the Interstate 64/Interstate 55 interchange as the "Jack Buck Memorial Highway" (Section 227.409);

(10) Repeals provisions regarding the cutting requirements of a person owning a hedge fence situated along the right-of-way of any public road (Section 229.110);

(11) Authorizes the Secretary of State to charge a \$45 fee for a corporate filing of the original articles of organization in an electronic format (Chapters 347, 351, 355, and 356);

(12) Allows the Secretary of State to administratively cancel the articles of organization of limited liability companies and limited 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 administratively reinstate the company's or partnership's status under certain circumstances (Sections 347.183 and 359.681);

(13) 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 filed to be credited to the Secretary of State's Technology Trust Fund Account (Chapters 351, 355, and 356);

(14) 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 (Sections 351.125, 351.484, and 355.706);

(15) Limits the total duration for which a corporate name can be reserved to 180 days. Currently, the Secretary of State reserves a corporate name for an applicant's exclusive use for a 60-day period (Section 355.151);

(16) Establishes guidelines for the actual charges and actual fees collected regarding an individual or a group specified disease insurance policy (Section 376.789);

(17) Specifies that operating a motorcycle, in and of itself, will not be considered evidence of comparative negligence in any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle. When investigating an accident or settling a claim, no insurer, agent, producer, or claims adjuster can assign a percentage of fault to a party based upon the sole fact that the party was operating a motorcycle in an otherwise legal manner (Sections 379.130 and 537.055);

(18) Requires only the last four digits of a person's Social Security number to be listed on certain court filing documents and the full number to be kept confidential (Chapters 452 and 454 and Section 509.520);

(19) Removes the provision allowing courts to appoint volunteer advocates to assist guardians ad litem (Section 452.423);

(20) Allows a judge to take any action necessary and reasonable to prevent an international abduction of a child by a parent (Section 452.426);

(21) 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 (Sections 452.440 - 452.550 and 452.700 - 452.930);

(22) Revises the definition of "adult" as it relates to adult abuse by lowering the age from a person 18 years of age or older to a person 17 years of age or older (Section 455.010);

(23) Requires the public administrator to serve as the trustee or successor trustee when appointed by the circuit court or the probate division of the circuit court (Section 473.743);

(24) Allows an individual 18 years of age or older who has been adjudged incapacitated under Chapter 475 or who has been involuntarily committed under Chapter 632 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. If the court grants the petition, the county clerk must forward the order to the State Highway Patrol to update the National Instant Criminal Background Check System (Section 475.375);

(25) Removes the municipal court judge member from the Commission on Judicial Resources and requires the Clerk of the Missouri Supreme Court to provide suitable staff for the commission out of appropriated funds (Section 476.415);

(26) Removes the provision that allows a deposition prepared by a non-certified court reporter to be used in any court under certain circumstances (Section 485.077);

(27) Repeals provisions allowing a statute of limitation to not apply for the period of time that a Missouri resident resides out of the state (Section 516.200);

(28) Requires a person to appear on a service of summons no less than 10 days nor more than 60 days from the date the summons was delivered instead of the current nor more than 30 days and removes the requirement that if the claim exceeds the jurisdictional limits of the court division it must be certified to the presiding judge for assignment (Section 517.041);

(29) Removes the requirement that the clerk of the court send notice to a person who has had a default judgment entered against them in an eviction action by certified mail with return receipt requested and requires it to be sent by ordinary mail (Section 535.030);

(30) Changes when an eviction proceeding can commence from when the rent is six months in arrearage to when it is one month in arrearage (Section 535.120);

(31) Requires the judge or jury to visit the nuisance site in a private nuisance action where the amount in controversy exceeds \$1 million if requested by either party (Section 537.296);

(32) Specifies that any claim filed against any public entity under the Missouri Human Rights Act will be subject to the penalties in successor rule to Missouri Supreme Court Rule 55.03 (Section 537.610);

(33) Removes the requirement that court costs be assessed against the prosecutor in trespass cases if the defendant is acquitted or the prosecution fails (Section 545.050);

(34) Removes the requirement that when using two-way audio-visual communication for certain criminal proceedings 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. Two-way audio-visual communications are allowed for preliminary hearings with the consent of the defendant, in civil or criminal proceedings which are not required to be a matter of record, or by the consent of the parties (Section 561.031);

(35) Allows the Division of Developmental Disabilities within the Department of Mental Health to contract directly with providers of targeted case management services for clients of the division in a defined region that has not established a local developmental disability services board, commonly known as a Senate Bill 40 board (Section 630.407);

(36) 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 for DNA profiling analysis (Section 650.055);

(37) Allows the court, upon motion, to award court costs and attorney fees to the state in child support modification cases where the state is a party (Section 1);

(38) Requires all public advertisements and orders of publication required by law including, but not limited to, amendments to the Missouri Constitution, legal publications affecting sales of real estate under a power of sale in a mortgage or deed of trust, and other legal publications affecting the title to real estate to be published in a newspaper of general circulation (Section 2);

(39) Prohibits any political subdivision of the state and any local government or any agency, authority, board, commission, or department or its officers from enacting any ordinance or establishing or issuing any regulation, rule, policy, guideline, or proclamation describing the relationship between persons and domestic animals as other than persons may own domestic animals (Section 3); and

(40) Specifies that nothing in the Fire Safety Standard and Firefighter Protection Act can be interpreted or applied to permit noncompliance with other applicable statutes and case law

(Section 4).