

HCS SB 262 -- COURTS AND JUDICIAL PROCEEDINGS

SPONSOR: Bartle (Stevenson)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 8 to 3 with 1 present.

This substitute changes the laws regarding courts and judicial proceedings. 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 the establishment or modification of custody or visitation including, but not limited to, dissolution, modification, third-party visitation, or paternity (Sections 452.400 and 452.700 - 452.930, RSMo);

(2) Extends the expiration date of the Statewide Court Automation Fund fee from September 1, 2009, to September 1, 2013, and allows the Court Automation Committee to continue to function until September 1, 2015 (Section 476.055);

(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 (Section 441.645);

(4) Allows any court document that must be served by certified mail to be served using any delivery service with electronic tracking (Section 1.020);

(5) Requires a person to appear on a service of summons before a circuit judge 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 (Section 517.041);

(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 (Chapters 347, 351, 355, and 356);

(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 (Chapters 347, 351, 355, and 356);

(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 (Chapters 347, 351, 355, and 356);

(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 (Sections 347.183 and 359.681);

(10) Allows an individual 18 years of age or older who was found incompetent under Section 632 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 (Section 475.375);

(11) Reclassifies all state drug court commissioners and probate commissioners in the 31st Judicial Circuit to associate circuit court judges after January 1, 2010, and transfers six newly reclassified state court commissioners to different judicial circuits (Chapter 478);

(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 (Sections 478.003 and 487.020);

(13) Adds, beginning January 1, 2011, another division to the 38th Judicial Circuit to sit in Taney County (Section 478.575);

(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 (Section 477.600);

(15) Changes certain caseload reporting requirements for municipal and associate circuit court judges (Section 479.080);

(16) Adds an additional \$3 fee to all court 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 of local records (Sections 488.012 and 488.075);

(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 (Section 630.407);

(18) Allows first classification counties to create a county court to prosecute and punish county ordinance violations. These courts must be funded entirely by the county (Section 66.010);

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

(20) Allows a judge to publicly disclose information regarding the defendant in a domestic assault case which could be used to identify the victim, allows the victim to provide a statement, and requires the judge to consider the statement in determining whether or not to keep the information closed (Section 566.226);

(21) Raises maximum fines in municipal courts from \$500 to \$1,000 (Sections 82.300 and 479.015);

(22) Requires affidavits related to voluntary acknowledgments of paternity to be made available to the mother, father, child, attorneys, and state and federal governments (Sections 193.087, 193.215, and 454.445);

(23) Allows remote shareholder attendance to corporation shareholder meetings with the unanimous consent of the board of directors (Section 351.225);

(24) Limits corporate name reservation for non-profit corporations to six months (Section 355.151);

(25) Requires that no percentage of fault or liability be

assigned to an individual solely on the basis that the person was operating a motorcycle (Sections 379.130 and 537.055);

(26) Changes the laws regarding real estate broker liens by requiring that they be filed within 90 days of occupancy or the date of rent commencement in the lease (Section 429.609);

(27) Exempts landlords from liability for removing personal property of a tenant under a court-ordered execution and requires the landlord to make reasonable efforts to notify a third-party owner if the owner's name is visible on the property (Sections 441.065 and 441.233);

(28) Allows relocation of a child 60 days after notification to the other parent, unless a parent objects to the relocation within the required time period (Section 452.377);

(29) Removes the provision allowing courts to appointed non-attorney guardian ad litem (Section 452.423);

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

(31) Gives judges discretion when requiring the payment of child support arrearage before granting a parent custody. Currently, a judge is required to order a parent to pay any child support arrearage (Section 452.455);

(32) Establishes the Missouri Uniform Premarital Agreement Act which specifies the guidelines for the requirements, enforcement, amendment, and revocation of premarital agreements (Sections 452.615 - 452.660);

(33) Reduces from \$3,000 to \$2,500 the amount of unpaid child support that requires the Director of the Department of Revenue to file a lien (Section 454.516);

(34) Allows an individual who is 17 years of age to file for an adult order of protection and requires all adult orders of protection to be entered into a database within 24 hours (Section 455.010);

(35) Allows courts to require parties to deposit with the court an amount to cover guardian ad litem fees (Section 455.513);

(36) Allows a trustee to distribute income or principal to a qualified remainder beneficiary under certain circumstances (Sections 456.4-418 and 456.5-505);

(37) Allows the judge in a municipal case that is dismissed before the defendant pleads guilty or is found guilty to assess court costs against the defendant as specified in Section 488.012 if the defendant consents to pay and is not indigent and unable to pay the costs (Sections 479.260, 488.5032, 545.05, and 550.040);

(38) Allows an individual adversely affected by a person practicing law without a license to bring an action against the person under Chapter 407 (Section 484.020);

(39) Allows municipal court clerks to collect the same \$25 fee that county court clerks collect (Section 488.5025);

(40) Establishes a two-year statute of limitation for any action regarding injurious falsehood (Section 516.140);

(41) Repeals provisions allowing a statute of limitation to apply to a Missouri resident who moves out of the state (Section 516.200);

(42) Requires clerks to adopt a rule for the centralized filing of eviction cases and requires these cases to be heard within 30 days (Section 535.020);

(43) Removes the certified mail requirement for service in a landlord tenant case and replaces it with an ordinary mail requirement (Section 535.030);

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

(45) Allows the victim of a crime to have counsel or a representative present at parole hearings and grants him or her the right to receive a photograph of the defendant prior to release (Section 595.209);

(46) Changes the standard for finding that a person is a sexually violent predator for DNA sampling purposes from beyond a reasonable doubt to by a preponderance of the evidence (Section 650.055);

(47) Specifies that the state is not required to represent a party in any child support action if the party's income exceeds 300% of the federal poverty level (Section 1);

(48) Allows the court, upon motion, to award court costs and attorney fees to the state in cases where the state is a party (Section 2);

(49) Allows a party in an action to terminate parental rights to request a trial by jury (Section 211.445);

(50) Makes it a class A misdemeanor for promoting, participating, or allowing an individual younger than 18 years of age to participate in a mixed-martial arts contest in any cage or enclosure (Sections 317.011 - 317.019);

(51) Requires the Coordinating Board for Higher Education to make provisions for institutions under the board's jurisdiction to award a tuition and fee waiver for undergraduate courses at state universities or colleges for Missouri residents who have been in state custody and meet certain requirements (Section 173.270);

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

(53) Prohibits any person who has ever filed for bankruptcy from serving as a public administrator (Sections 473.730 and 473.770);

(54) Removes the municipal court judge member from the Commission on Judicial Resources and gives the Clerk of the Missouri Supreme Court more flexibility in providing suitable staff (Section 476.415);

(55) Eliminates the circuit clerk position in the 22nd Judicial Circuit and requires the court administrator in that circuit to exercise all the powers and duties of a circuit clerk (Section 483.015);

(56) Expands the types of civil and criminal proceedings for which videoconferencing can be utilized (Section 561.031);

(57) Prohibits the Department of Agriculture from contracting with or using the services of any nonprofit organization for the inspection or licensing of any kennel, animal shelter, pet shop, or exhibition facility and prohibits any former or current member of an organization with a primary mission of promoting animal rights from serving as the State Veterinarian's designee, an animal welfare official, or otherwise affiliated in any manner with the department (Section 3);

(58) Changes the laws regarding the requirements for all public advertisements and orders of publication regarding foreclosure notices (Section 5); and

(59) Repeals provisions regarding owning a hedge fence situated along the right-of way of any public road (Section 229.110).

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$998,508 to Unknown in FY 2010, \$1,448,879 to Unknown in FY 2011, and \$2,156,294 to Unknown in FY 2012. Estimated Effect on Other State Funds of an income of \$42,533 to a cost of Unknown in FY 2010, an income of \$100,000 to a cost of Unknown in FY 2011, and an income of \$100,000 to a cost of Unknown in FY 2012.

PROPONENTS: Supporters say that the bill will close a loophole in the Missouri statute of limitations.

Testifying for the bill was Senator Bartle.

OPPONENTS: There was no opposition voiced to the committee.