

HCS SCS SB 774 -- DEPARTMENT OF MENTAL HEALTH

SPONSOR: Lembke (Riddle)

COMMITTEE ACTION: Voted "do pass" by the Committee on Corrections and Public Institutions by a vote of 10 to 0.

This substitute changes the laws regarding Department of Mental Health protection measures, overdue patient accounts, and the use of force by department employees.

DEPARTMENT OF MENTAL HEALTH PROTECTION MEASURES

The crime of endangering a Department of Mental Health employee, a visitor or other person at a secure facility, or another offender is created when a person attempts to cause or knowingly causes one of these individuals to come into contact with blood, seminal fluid, urine, feces, or saliva. Anyone committing this crime will be guilty of a class D felony unless the substance is unidentified in which case it will be a class A misdemeanor. If the person committing the crime is knowingly infected with the human immunodeficiency virus (HIV), hepatitis C, or hepatitis B and exposes another person to the illness in the commission of the crime, he or she will be guilty of a class C felony.

OVERDUE PATIENT ACCOUNTS FOR MENTAL HEALTH SERVICES

Currently, an overdue patient account submitted to a court for collection must be certified by the head of a residential facility or day program, with the seal of the institution attached, in order to constitute prima facie evidence of the amount due. The substitute requires the certification to be completed by the department director or his or her designee instead of the head of the facility or program.

USE OF FORCE BY DEPARTMENT OF MENTAL HEALTH EMPLOYEES

The substitute:

(1) Specifies that a person will not be guilty of the crime of patient, resident, or client abuse or neglect if he or she beats, strikes, or injures a patient, resident, or client or if he or she uses more force than necessary for the proper control of a patient, resident, or client of a mental health or residential facility when acting in self-defense or in defense of others;

(2) Specifies that self-defense and the defense of others will justify only the use of the minimal amount of force reasonably necessary to deter an imminent threat of harm to oneself or another person or to end an assault on oneself or another person.

This provision will only apply to employees at maximum or medium security department facilities;

(3) Prohibits the department from terminating or sanctioning an employee based on an action taken in self-defense or defense of others in the course of employment against a person, patient, resident, or client who is dangerous or violent; has a history of dangerous or violent behavior; or whose mental state or condition includes dangerous or violent tendencies and requires the employment record of the employee to be expunged of any documentation regarding the act of self-defense or defense of others; and

(4) Requires the department to conduct a hearing to determine whether an employee acted in self-defense or the defense of others if a person asserts self-defense or defense of others. Any adverse determination by the department will be subject to appeal in accordance with Chapter 536, RSMo.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Unknown less than \$235,208 in FY 2011, Unknown less than \$244,853 in FY 2012, and Unknown less than \$249,199 in FY 2013. No impact on Other State Funds in FY 2011, FY 2012, and FY 2013.

PROPOSERS: Supporters say that the bill gives mental health employees the same protections as corrections employees by creating the crime of endangering a Department of Mental Health employee.

Testifying for the bill was Senator Lembke.

OPPOSERS: There was no opposition voiced to the committee.