

HCS HB 351 -- CRIMINAL OFFENDERS

SPONSOR: McGaugh

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 10 to 0. Vote "Do Pass with HCS" by the Standing Committee on Rules-Legislative Oversight by a vote of 11 to 0.

This bill modifies provisions relating to criminal offenders.

DETENTION OF JUVENILES IN ADULT JAILS

Currently, any child under the age of 17 who has been certified as an adult may be detained in an adult jail prior to trial. Beginning January 1, 2019, this bill prohibits the detention of any child certified as an adult in an adult jail until the child has been sentenced or turns 17 years of age, or unless the child was placed by the court in one of the Department of Corrections' 120-day programs, or upon the request and a showing of good cause by the director of an alternative detention facility to the court.

This bill requires the Division of Youth Services in collaboration with the Office of State Courts Administrator to establish the Certified Youth Jail Removal Workgroup to develop, by January 1, 2018, a plan for the removal of certified children from an adult jail pending trial and sentencing. By January 1, 2018, the workgroup shall make recommendations to the General Assembly regarding the establishment of alternative detention facilities for children who have been certified as adults. The workgroup shall automatically terminate on September 1, 2019 (Sections 211.033, 211.071, 211.151, 221.044, and 221.240, RSMo).

JUVENILE SHACKLING

The bill provides that when a juvenile court has a rule or otherwise requires the use of restraints during proceedings, the juvenile's attorney must have the right to be heard on a request that the restraints not be used (Section 211.436).

TRANSPORTATION AND SHACKLING OF PREGNANT WOMEN

The Department of Corrections must establish, by rule, policies and procedures for the transportation, evaluation, and treatment of pregnant and postpartum offenders and must consult with physicians, nursing, correctional, and other professional organizations in establishing such rules. The rules must include certain specified provisions pertaining to the shackling of pregnant inmates (Section 217.152).

In the event a chief administrative officer or his or her designee determines that extraordinary circumstances exist and restraints are used, the chief administrative officer or his or her designee must fully document, in writing within seven days of the incident, the reasons he or she determined such extraordinary circumstances existed, the kind of restraints used, and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

The chief administrative officer of each correctional center that houses pregnant and postpartum offenders must ensure the employees of the correctional center who come in contact with pregnant or postpartum offenders are provided with specific training.

This bill is similar to HCS SCS SB 618 (2016).

PROPONENTS: Supporters say that oftentimes, shackling of pregnant inmates can lead to complications during child birth, and sometimes it can lead to the death of either the inmate or the baby. There are also inconsistencies regarding whether pregnant inmates are shackled, so this bill would provide some clarity.

Testifying for the bill were Representative McGaugh; Campaign Life Missouri; March of Dimes; ACLU Missouri; NARAL Pro-Choice Missouri; Therese O'Brien; and Missouri Catholic Conference.

OPPONENTS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say that they want to be assured that physicians have the ability to remove or replace shackles if need be.

Testifying on the bill was SSM Health Care.