

## HCB 1 -- JUDICIAL PROCEEDINGS

SPONSOR: McGaugh

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Rules - Legislative Oversight by a vote of 9 to 3.

### OFFICIAL MISCONDUCT

This bill provides that, upon request by a prosecuting attorney or law enforcement agency, the State Auditor or his or her authorized designee may audit all or part of any government entity. The bill also provides that violating provisions relating to conflict of interest and lobbying is a class E felony if the offense involves more than \$750 in value or if the offender has previously been found guilty of official misconduct. A court may enter judgment of restitution against an offender and may order the offender to make restitution to the victim, a government entity, or a third-party payor. The bill makes provisions regarding the determination and enforcement of the restitution. The bill also creates the offense of official misconduct in the first degree, which is a class E felony, and the offense of official misconduct in the second degree, which is a class A misdemeanor (Sections 229.225, 105.478 and 576.040, RSMo).

This is the same as SB 176 (2017).

### RESPONSIVE PLEADINGS

This bill requires the responding party to file a response to any motion to modify a child support, spousal maintenance, or child custody judgment (Sections 210.845, 452.370 and 454.500).

This is similar to HCS HB 285 (2017).

### IGNITION INTERLOCK DEVICES

This bill specifies that exemptions for ignition interlock device requirements shall not be granted to individuals who are self employed or who wholly or partially own or control an entity that owns an employer-owned vehicle.

The exemption by the court may also require that the person submits to continuous alcohol monitoring as an addition or alternative to an ignition interlock device (Section 302.441).

This is the same as HCS HB 875 (2017).

### UNIFORM COMMERCIAL CODE

This bill updates Articles 1 and 7 of Missouri's Commercial Code to match the current version of the Uniform Commercial Code (Chapter 400).

This is the same as HB 34 (2017).

#### RECORDER OF DEEDS AND FALSE FILINGS

This bill creates the offense of filing a false document, which is committed if, with intent to defraud, deceive, harass, alarm, or negatively impact financially, a person files, causes to be filed, or attempts to file, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, or transferred to the Secretary of State or his or her designee, any county recorder of deeds or his or her designee, any municipal, county, district, or state government entity or office, or any credit bureau or financial institution specified documents. For the first offense, filing a false document is a class D felony. Filing false documents is a class C felony in certain specified instances. Any person who is found guilty of committing such offense will be ordered to make full restitution to any person or entity that has sustained any actual losses as a result of the commission of such offense.

The bill specifies that a system must be created, by January 1, 2018, in which suspicious filings are logged, and outlines the process for petitioning the court when a person has probable cause to believe a filing is fraudulent (Sections 400.9 - 501).

This is the same as HCS HB 303 (2017).

#### TRUST INSTRUMENTS

Currently, there are certain circumstances under which a no-contest clause, in a trust instrument is unenforceable against an interested person. This bill adds the following circumstances:

- (1) Filing a motion, pleading, or other claim for relief concerning breach of trust by a trustee; and
- (2) Filing a motion, pleading, or other claim for relief concerning removal of a trustee.

Additionally, a trustee of a trust consisting of trust property with a total value of less than \$100,000 may terminate the trust, after notice to qualified beneficiaries, if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration. This bill amends the provision to specify

that a trustee may do so if the trust property has a total value of less than \$250,000 (Sections 456.4-414 and 456.4-420).

This is the same as HCS HB 427 (2017).

#### GUARDIANSHIP OF MINORS

This bill allows the court to order visitation between a minor who has been appointed a guardian and the minor's parents if the minor's parents petition the court for periods of visitation and if the court finds that the visitation is in the best interest of the minor, as specified (Chapter 475).

This is the same as HB 287 (2017).

#### 16TH JUDICIAL CIRCUIT

This bill moves Division 12 of the 16th Judicial Circuit from Kansas City to the City of Independence (Section 478.463).

This is the same as HB 1388 (2016).

#### COURT REPORTER COST

This bill repeals provisions of law that specify that court reporters shall receive \$3.50 per page in proceedings in any circuit court. The bill also repeals the requirement that court reporters be reimbursed at \$3.50 per page (Sections 479.020 and 488.2250).

This is the same as HCS HB 597 (2017).

#### NONCHARTER COUNTY JUDICIAL CIRCUIT

This bill provides that any single noncharter county judicial circuit, rather than just the 31st judicial circuit, shall collect a surcharge of up to \$10 in all cases, to be deposited in an account known as the "Justice Center Fund." In addition to costs associated with the construction, maintenance, and operation of a judicial facility, the bill states that funds from the surcharge may be used for the architectural and engineering planning of a judicial facility or justice center. The county or municipality shall maintain records identifying all funds received and expenditures made from the fund (Section 488.2206).

This is the same as to SB 83 (2017).

#### PROPERTY EXEMPT FROM EXECUTION

This bill adds engagement rings valued up to \$1,500 to the list of property exempt from attachment and execution. Currently, any miscellaneous property valued up to \$600 in the aggregate is exempt from attachment and execution. This bill increases the value to \$1,200. The bill also adds 401(k)s and any type of individual retirement arrangement as defined by Publication 590 of the IRS, but this exemption is limited by federal law.

Finally, the law currently allows each head of a family to select and hold various property and debts and wages valued up to \$1,250 plus up to \$350 for each head's unmarried dependent children under the age of 21, to be exempt from execution. This bill increases the values to \$1,650 plus \$450 for the person's unmarried dependent children under the age of 21 (Sections 513.430 and 513.440).

This is the same as HCS HB 422 (2017).

#### GUARDIAN AD LITEM FEES

This bill excludes guardian ad litem fees from the costs and expenses that may be waived, in certain civil actions, without the necessity of a motion and court approval (Section 514.040).

This is the same as HB 765 (2017).

#### CRIMES AGAINST EMERGENCY SERVICE PROVIDERS

This bill provides that persons convicted of certain offenses against law enforcement officers, firefighters, or emergency medical service providers are ineligible for bail, continuation of bail, probation, or parole. The bill also provides that persons convicted of resisting or interfering with arrest, detention, or stop are ineligible for probation or parole.

The bill also creates the Blue Alert System for notification to the general public in instances where law enforcement officers are killed or injured. The Department of Public Safety is given certain duties relating to the operation of the system. Any person who knowingly makes a false report that triggers an alert of the system is guilty of a class A misdemeanor (Section 514.040).

This is the same as SCS SB 46 (2017).

#### LACK OF MENTAL FITNESS TO STAND TRIAL

This bill provides that, after a person accused of committing a crime has been committed to the Department of Mental Health due to lack of mental fitness to stand trial, the legal counsel for the department shall have standing to participate in hearings regarding

involuntary medications for the accused (Section 552.020).

This is the same as SB 221 (2017).

#### TOBY'S LAW

This bill creates "Toby's Law," which provides that a person who has been found guilty of driving while intoxicated must complete a victim impact program approved by the court. The person is responsible for any charges imposed by the program (Chapter 577).

This is the same as SB 142 (2017).

#### LEAVING THE SCENE OF AN ACCIDENT

This bill specifies that the offense of leaving the scene of an accident is a class D felony if a death occurs as a result of the accident (Section 577.060).

This is the same as HB 178 (2017).

PROPONENTS: Supporters say that the bill combines multiple bills that were heard in the Judiciary Committee. Both sides of the aisle provided input as to the content of the bill.

Testifying for the bill was Representative McGaugh.

OPPONENTS: There was no opposition voiced to the committee.