

HB 541 -- VIOLATION OF STATE LAW

SPONSOR: Murphy

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Judiciary by a vote of 11 to 5. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 5 to 4.

This bill specifies that law enforcement may forward a case to the Attorney General's office for review if, after law enforcement notifies the prosecuting attorney of a violation of state law for which there is probable cause of such violation, the prosecuting attorney decides not to commence a case against the person. After review, if the Attorney General determines there was probable cause of a violation of state law, the Attorney General may prosecute such case.

PROPOSERS: Supporters say that this allows law enforcement to refer a case to the Attorney General's Office if there is probable cause to prosecute. It is meant to provide a check and balance, not to be a day-to-day affair. It provides an opportunity for another set of eyes.

Testifying for the bill were Representative Murphy; St Louis County Police Association; and St. Louis Police Officials Association.

OPPOSERS: Those who oppose the bill say that the language about probable cause is concerning because the standard should be that there is a reasonable likelihood of prevailing at trial. It is an ethical violation to require prosecutors to file a case where they don't think they will win at trial. There are different standards in different communities, and sometimes they do not proceed with charges because it is the right thing to do. The people who elect their county prosecutor did not necessarily elect the Attorney General. The check and balance on the office is the electorate.

Testifying against the bill was Ben Miller, Missouri Association of Prosecuting Attorneys.

OTHERS: Others testifying on the bill say that they do not have a position on the bill but they are available to answer questions.

Testifying on the bill was the Missouri Attorney General's Office.