

SS SB 600 -- DANGEROUS FELONIES

This bill modifies provisions relating to dangerous felonies.

OFFENSE OF CONSPIRACY (Sections 545.140, 557.021, and 562.014)

Under this bill, if two or more defendants are charged with being joint participants in a conspiracy, it is presumed there is no substantial prejudice in charging both defendants in the same indictment or in their being tried together.

Currently, guilt for an offense may be based upon a conspiracy to commit an offense when a person, with the purpose of promoting the commission of the offense, agrees with another person that they will engage in conduct to commit the offense. A person cannot be convicted of an offense based upon a conspiracy to commit the offense unless he or she commits an overt act in furtherance of the offense.

The bill modifies the offense of conspiracy. Under this bill, a person commits the offense of conspiracy if a person agrees, with one or more persons, to commit any class A, B, or C felony, or any unclassified felony that exceeds 10 years of imprisonment, and one or more persons do any act in furtherance of the agreement. The offense of conspiracy to commit an offense is a Class C felony.

Additionally, this bill repeals the provisions barring a person from being charged, convicted, or sentenced for both the conspiracy to commit the offense and the actual offense.

DEFINITION OF DANGEROUS FELONY (Section 556.061)

The bill adds to the definition of "dangerous felony" the offense of armed criminal action, the offense of conspiracy to commit an offense when the underlying offense is a dangerous felony, and the offense of vehicle hijacking when punished as a class A felony.

OFFENSES NOT ELIGIBLE FOR PROBATION (Section 557.045)

The bill provides that any person found guilty of or pleading guilty to: the offense of second degree murder when the person knowingly causes the death of another person or, with the purpose of causing serious physical injury to another person, causes the death of another person; any dangerous felony involving a deadly weapon; or any dangerous felony where the person has been previously found guilty of a class A or B felony or a dangerous felony shall not be eligible for probation, suspended imposition or execution of sentence, or a conditional release term and shall be sentenced to a term of imprisonment.

OFFENSE OF VEHICLE HIJACKING (Section 570.027)

The bill creates the offense of vehicle hijacking, which is committed when an individual knowingly uses or threatens the use of physical force upon another individual to seize or attempt to seize possession or control of a vehicle. This offense is punished as a class B felony unless one of the aggravating circumstances listed in the bill was present during the commission of the offense, in which case it is punished as a class A felony.

OFFENSE OF ARMED CRIMINAL ACTION (Section 571.015)

Currently, a person who commits the offense of armed criminal action is subject to a term of imprisonment of not less than three years for the first offense, five years for the second offense, and 10 years for any subsequent offense, in addition to any punishment for the offense committed by, with, or through the use of a deadly weapon.

This bill changes the prison term for this offense to three to 15 years for the first offense, five to 30 years for the second offense, and at least 10 years for any subsequent offense. These prison terms shall be served in addition to and consecutively with any punishment for the offense committed with the use of a deadly weapon. Additionally, this bill provides that, if the person convicted of armed criminal action is unlawfully possessing a firearm, the minimum prison term for the first offense is five years, the second offense is 10 years, and the third or subsequent offense is 15 years.

No person convicted for the offense of armed criminal action shall be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for the minimum period of imprisonment (Section 571.015).

UNLAWFUL POSSESSION OF A FIREARM (Section 571.070)

Currently, the offense of unlawful possession of a firearm is a class D felony. This bill increases the penalty for unlawful possession of a firearm by a person convicted of a dangerous felony to a class C felony.

CRIMINAL STREET GANGS (Sections 578.419, 578.423, and 578.425)

This bill establishes the "Missouri Criminal Street Gangs Prevention Act". The bill modifies the definition of a "criminal street gang" by defining such an organization to have as one of its motivating, rather than primary, activities the commission of one

or more criminal acts. The definition of "pattern of criminal street gang activity" is modified to include "dangerous felony" as one of the offenses that would constitute a pattern.

Currently, any person who actively participates in any criminal street gang with knowledge that its members engage in a pattern of criminal street gang activity and who willfully promotes such criminal conduct shall be punished by one year in the county jail or one to three years of imprisonment in a state correctional facility. This bill provides that such a person who actively participates in any criminal street gang that engages in a pattern of criminal conduct shall be guilty of a class B felony.

Further, this bill changes the required mental state and penalty for any person who is convicted of a felony or misdemeanor that is committed for the benefit of, at the direction of, or in association with, a criminal street gang. This bill provides that such action must be with the purpose, rather than the specific intent, to promote, further, or assist in any criminal conduct by gang members. The bill repeals the applicability of this provision to a misdemeanor.

A person convicted under this bill shall serve a term in addition to and consecutively with the punishment for the felony conviction a term of two years, unless the felony is committed within 1000 feet of a school, in which case the term shall be three years.

Finally, if a person is convicted of a dangerous felony under this bill, he or she shall be punished by an additional five years.