

HCS SS SCS SBs 53 & 60 -- THE ADMINISTRATION OF JUSTICE

SPONSOR: Luetkemeyer (Roberts)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 11 to 0. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by the vote of 8 to 3.

The following is a summary of the House Committee Substitute for SB 53.

OFFENSES AGAINST A BODY OF THE GENERAL ASSEMBLY (Sections 21.403, 21.405, 575.040, 575.050, 575.160, 575.270, 575.280, 575.330, and 576.030, RSMo)

This bill specifies that, when a person is subpoenaed to testify or provide information at a proceeding before a body of the General Assembly, a court must issue, upon request from the President Pro Tem or the Speaker of the body that subpoenaed the person, an order requiring the person to testify or provide information if the person refuses to do so on the basis of the person's privilege against self-incrimination. Before issuing such an order, a court must find that the request for the order has been approved by a vote of a three-fifths majority of the members of the body requesting the order. If a witness refuses, on the basis of the privilege against self-incrimination, to testify or provide information and the person presiding over the proceeding informs the witness that an order requiring the testimony or production of information was issued, the witness must not refuse to comply with the order on the basis of the asserted privilege. However, no testimony or information compelled under the order may be used against the witness in any criminal proceeding other than perjury, giving a false statement, or otherwise failing to comply with the order.

If a witness summoned by a body of the General Assembly willfully fails to appear, refuses to answer any pertinent questions, or fails to produce required documents, a statement of facts regarding such failure may be reported to and filed with the President Pro Tem of the Senate or the Speaker of the House. Either the President Pro Tem or the Speaker may certify the statement of facts to the prosecuting or other attorney having jurisdiction to prosecute. The Attorney General will have concurrent original jurisdiction to commence a criminal action throughout the state. Upon request by the President Pro Tem or the Speaker of the originating body, the court must, within 15 days of the request, appoint independent counsel, who will have jurisdiction to prosecute under Section 575.330, RSMo. If independent counsel is

appointed, such independent counsel will have sole jurisdiction to prosecute under such section.

The bill also specifies that:

(1) The offense of perjury is a class D felony if it is committed in any proceeding before a body of the General Assembly;

(2) The offense of making a false affidavit is a class A misdemeanor when it is done in any proceeding before a body of the General Assembly;

(3) The offense of tampering with a witness or victim is a class E felony when the witness is a witness in a proceeding before a body of the General Assembly;

(4) The offense of acceding to corruption when the person is a witness or prospective witness in a proceeding before a body of the General Assembly is a class D felony;

(5) A person commits the offense of obstructing government operations if he or she purposely obstructs, impairs, hinders, or perverts the performance of a governmental function by the use or threat of harm, intimidation, or coercion. The offense of obstructing government operations is a class A misdemeanor. However, if committed against a body of the General Assembly, it is a class E felony.

DEPARTMENT OF CORRECTIONS (Sections 56.380, 56.455, 105.950; 149.071, 191.1165, 214.392, 217.010, 217.030, 217.195, 217.199, 217.243, 217.250, 217.270, 217.362, 217.364, 217.455, 217.541, 217.650, 217.655, 217.690, 217.692, 217.695, 217.710, 217.735, 217.829, 217.845, 221.065, 221.105, 549.500, 557.051, 558.011, 558.026, 558.031, 558.046, 559.026, 559.105, 559.106, 559.115, 559.125, 559.600, 559.602, 559.607, 566.145, 571.030, 575.206, 589.042, 650.055, and 650.058)

This bill modifies several provisions relating to the Department of Corrections.

This bill replaces the "Department of Corrections and Human Resources" with "Department of Corrections" and the "Board of Probation and Parole" with the "Division of Probation and Parole" or the "Parole Board".

This bill also adds that the chairperson of the board shall employ employees as is necessary to carry out duties, serve as the appointing authority over such employees, and provide for appropriate training to members and staff.

This bill repeals the provision that the chairperson of the board shall also be the Director of the Division of Probation and Parole.

Under this bill, the Department of Corrections and all other state entities responsible for the care of persons detained or incarcerated in jails or prisons shall be required to ensure all such persons are assessed for substance abuse disorders; shall make available certain medication-assisted treatment services, consistent with a treatment plan developed by a physician; and shall not impose any arbitrary limitations on the type of medication or other treatment prescribed or dose or duration of the recommended services.

This bill also modifies the list of covered medications to include formulations of buprenorphine other than tablets and formulations of naltrexone including extended-release injectable formulations. This bill provides that, effective January 1, 2023, any inmate who receives an on-site, non-emergency medical examination or treatment from the correctional center's medical personnel shall be assessed a charge of \$0.50 per visit for the medical examination or treatment.

Inmates shall not be charged a co-pay fee for the following:

- (1) Staff-approved follow-up treatment for chronic illnesses;
- (2) Preventive health care;
- (3) Emergency services;
- (4) Prenatal care;
- (5) Diagnosis or treatment of chronic infectious diseases;
- (6) Mental health care; or
- (7) Substance abuse treatment.

This bill provides that inmates without funds shall not be charged, provided they are considered to be indigent and unable to pay the health care services fee. Additionally, this bill provides that the Department of Corrections shall deposit all funds collected into General Revenue.

This bill provides that offenders who receive funding from the federal Coronavirus Aid, Relief, and Economic Security (CARES) bill shall use such funds to make restitution payments ordered by a court resulting from a conviction of a violation of any local,

state, or federal law.

Currently, the chief administrative officer of a correctional center may operate a canteen or commissary for the use and benefit of the offenders with the approval of the Division Director. Each correctional center keeps revenues received from the canteen or commissary to purchase the goods sold and other operating expenses.

This bill specifies that, the Director of the Department of Corrections must approve the creation and operation of any canteen or commissary. This bill also creates the "Inmate Canteen Fund" in the State Treasury which shall consist of funds received from the inmate canteens. Any proceeds generated from this Fund shall be expended solely for the purpose of improving inmate recreational, religious, educational, and reentry services.

This bill repeals the current "Inmate Canteen Fund", which receives the remaining funds from sales of the canteen or commissary.

This bill also provides that Director of Corrections and any sheriff or jailer who holds a person in custody shall ensure that an appropriate quantity of feminine hygiene products are available at no cost to female offenders while confined in any correctional center or jail. The General Assembly may appropriate funds to assist with the funding of this requirement.

Currently, the Department of Corrections shall issue a reimbursement to a county for the actual cost of incarceration of a prisoner not to exceed certain amounts as provided in the bill. However, the amount shall not be less than the amount appropriated in the previous fiscal year.

This bill repeals the provision that the amount reimbursed to counties shall not be less than the amount appropriated in the previous fiscal year.

Currently, a person who is serving a term of imprisonment receives credit toward his or her service of a sentence for all the person's time in prison, jail, or custody after the offense occurred. This bill changes that to after conviction. Additionally, the court may, when pronouncing a sentence, award credit for time spent in prison, jail or custody after the offense occurred and before conviction. This applies to offenses occurring on or after August 28, 2021.

COURT COSTS COLLECTED BY SHERIFFS (Section 57.280)

Currently, sheriffs who serve any summons, writ, or other order of the court may collect fees in civil cases. These court fees are

collected by the court clerk and held in certain state and local funds.

This bill provides that a charge of up to \$50 may be received by a sheriff for service of any summons, writ, or order for an eviction proceeding. All charges shall be collected by the sheriff prior to the service being rendered and paid to the county treasurer. The funds shall be held in a fund established by the county treasurer and may be expended at the discretion of the sheriff for the furtherance of the sheriff's set duties.

POLICE COMMISSIONERS (Section 84.400)

This bill provides that a member of the Kansas City Board of Police Commissioners or any member of such police force may be appointed to serve on any state or federal board, commission, or task force where no compensation for such service is paid, except that such board member may accept a per diem or reimbursement for necessary expenses for attending meetings.

KANSAS CITY POLICE DEPARTMENT RESIDENCY REQUIREMENTS (Section 84.575)

This bill provides that the Board of Police Commissioners in Kansas City shall not require, as a condition of employment, that any currently employed or prospective law enforcement officer or other employee reside within any jurisdictional limit. Any current residency requirement in effect on or before August 28, 2021, shall not apply and shall not be enforced.

Additionally, the Board of Police Commissioners may impose a residency rule, but the rule or requirement shall be no more restrictive than requiring such personnel to reside within 30 miles from the nearest city limit and within the boundaries of the state of Missouri.

MEDICAL MARIJUANA-RELATED DISCLOSURE (Section 191.255)

The bill prohibits state agencies from disclosing to the federal government or any unauthorized third party a statewide list or any individual information of persons who have applied for or obtained a medical marijuana card. The penalty for violation is a class E felony.

COMMUNICABLE DISEASES (Sections 191.677, 545.940, 575.155, and 575.157)

This bill modifies the laws regarding Human Immunodeficiency Virus (HIV), and applies the law to all serious infectious or

communicable diseases instead of only HIV. A serious infectious or communicable disease is a non-airborne disease spread from person to person that is fatal or causes disabling long-term consequences in the absence of lifelong treatment and management.

It shall be a class D felony for a person knowingly infected with a serious infectious or communicable disease to be a blood, organ, sperm, or tissue donor, except as deemed necessary for medical research or deemed medically appropriate by a licensed physician; or to knowingly expose another person to a serious infectious or communicable disease through an activity that creates a substantial risk of transmission as determined by competent medical or epidemiological evidence. If the victim contracts a serious infectious or communicable disease, it is a class C felony. It shall be a class A misdemeanor for a person knowingly infected with a serious infectious or communicable disease to act in a reckless manner by exposing another person to a serious infectious or communicable disease through an activity that creates a substantial risk of transmission as determined by competent medical or epidemiological evidence.

It is an affirmative defense if the person exposed to the serious infectious or communicable disease knew that the infected person was infected and consented to the exposure with such knowledge.

When alleging a violation of the law against exposing another person to a communicable disease, the prosecuting attorney or grand jury must use a pseudonym to protect the victim of the crime.

This bill makes the crimes of offense of endangering a corrections employee and offense of endangering a Department of Mental Health employee apply to prisoners who are knowingly infected with any serious infectious or communicable disease and exposes another person to the disease. Currently, the law only applies to exposing the victim to HIV, Hepatitis B, or Hepatitis C.

PROTECTION OF CHILDREN (Sections 210.143, 210.493, 210.1250, 210.1253, 210.1256, 210.1259, 210.1262, 210.1263, 210.1264, 210.1265, 210.1268, 210.1271, 210.1274, 210.1280, 210.1283, and 210.1286)

This bill adds a process by which an "exempt-from-licensure residential care facility", as defined in the bill, is required to notify the Department of Social Services (DSS) of their existence and compliance with provisions that protect the safety of the children in residence. These include: fire and safety inspections, local health department inspections, background checks, medical records for all residents, and information about schools serving the children. The bill provides courts the power to expand on

orders to produce children in a facility if there is suspicion of abuse or neglect.

This bill creates a process for DSS to provide background checks for licensed residential care facilities or child placing agencies and for residential care facilities subject to the notification requirements of 210.1250 to 210.1286 RSMo. Fingerprints are valid for 5 years and DSS will provide results to the applicant and to the facility or agency. The bill outlines what will make an applicant ineligible and provides applicants the right to appeal.

When there are allegations of abuse or neglect in the residential facility, the bill outlines how the Department can petition a court for an order for a home to present a child that is the subject of a child abuse investigation. The bill specifies that any case in which a referral is made to a juvenile officer for removal of a child, a referral may also be made to the Attorney General.

The bill further details that failure to comply with these provisions may result in fines, misdemeanor charges for failure to conduct background checks, and potential removal of children.

The bill specifies that the Department may promulgate necessary rules that include a fee to cover the cost of the notification process. However, it is not permitted to regulate any religious program, curriculum, or ministry.

These provisions are subject to an emergency clause for immediate implementation to protect children.

A CHILD'S RIGHT TO COUNSEL (Section 211.211)

This bill specifies that if a child waives his or her right to counsel, such waiver shall be made in open court and be recorded and in writing. In determining whether a child has knowingly, intelligently, and voluntarily waived his or her right to counsel, the court shall look to the totality of the circumstances, as specified in the bill. If a child waives his or her right to counsel, the waiver shall only apply to that particular proceeding. The bill also specifies certain proceedings in which a child's right to counsel cannot be waived unless the child has had the opportunity to meaningfully consult with counsel and the court has conducted a hearing on the record.

JUVENILE JUSTICE (Sections 211.021, 211.181, and 211.435)

This bill specifies that, for the purposes of Chapter 211, RSMo, Section 221.044, and the original jurisdiction of the juvenile court, if a person was considered an adult when the alleged offense

or violation was committed, he or she will not later be considered a child. Additionally, under current law, no court will require a child to remain in the custody of the Division of Youth Services past the child's 18th birthday. This bill changes that provision so that a child can remain in the custody of the Division of Youth Services until the child's 19th birthday.

There is currently a state "Juvenile Justice Preservation Fund", which exists in the State Treasury. This bill changes that so there is a Juvenile Justice Preservation Fund in each county's circuit court, and the purpose of this fund is to implement and maintain the expansion of juvenile court jurisdiction to 18 years of age. The surcharge collected under the section will be payable to the county circuit court rather than to the State Treasury. Funds currently held by the State Treasurer in the Fund must be payable and revert to the circuit court's fund in the county of origination. Expenditures from the individual county juvenile justice funds will be made at the discretion of the juvenile office for the circuit court and must be used for the sole purpose of implementing and maintaining the expansion of juvenile court jurisdiction.

The bill states that, to further promote the best interests of the children of Missouri, money in the fund will not be used to replace or reduce the responsibilities of either the counties or the state to provide funding for existing and new juvenile treatment services.

These provisions are subject to an emergency clause.

WHISTLEBLOWER PROTECTIONS (Section 285.575)

The bill specifies that the term "employer" includes law enforcement agencies for the purpose of whistleblower protections.

HEAD START SCHOOL BUSES (Section 304.050)

This bill provides that a certified Head Start school bus is subject to all provisions that a certified school bus is subject, except for the requirement of a crossing control arm.

CHILD VISITATION (Section 452.410)

The bill specifies in accordance with which certain sections a joint custody or visitation order may be modified.

ORDERS OF PROTECTION (Sections 455.010, 455.032, 455.040, 455.045, 455.050, 455.513, 455.520, and 455.523)

This bill specifies that, adult protection orders and child protection orders, full or ex parte, may be granted to restrain or enjoin an individual from committing or threatening to commit abuse against a pet. A protection order may include an order of

possession of the pet where appropriate, as well as any funds needed to cover the medical costs resulting from abuse of the pet. "Pet" is defined in this bill as a living creature maintained by a household member for companionship and not for commercial purposes. Currently, a court may issue a full adult order of protection, after a hearing, for at least 180 days and not exceeding one year. This bill specifies that, if the court finds, after an evidentiary hearing, that the respondent poses a serious danger to the physical or mental health of the petitioner or a minor household member, the protective order shall be valid for at least two years and not more than 10 years. The full order may be renewed annually for a period of at least 180 days and not more than one year from the expiration date of the previously issued order; except, in cases where the court finds the respondent poses a serious danger to the petitioner or a minor household member, then the order may be renewed periodically and shall be valid for at least two years and up to the life of the respondent. The court may include a provision that any full order of protection shall be automatically renewed for any term of renewal as set forth in this bill.

If a court finds that the respondent poses a serious risk to the petitioner or a minor household member, the court shall not modify the order until a period of at least two years from the date of the original full order of protection was issued and only after a hearing and making written findings that the respondent has shown proof of treatment and rehabilitation and no longer poses a serious danger.

Currently, the clerk issues a copy of any order of protection to the local law enforcement agency responsible for maintaining the Missouri Uniform Law Enforcement System (MULES) the same day the order is granted and the local law enforcement agency enters the information contained in the order into MULES. This bill specifies that the court shall provide all the necessary information regarding the order of protection for entry into MULES and the National Crime Information Center (NCIC). The sheriff shall enter the information into MULES within 24 hours and MULES shall forward that information to NCIC, thus making the order viewable in the National Instant Criminal Background Check System (NICS).

GUARDIANS AD LITEM (GALs) (Section 475.120)

The bill specifies that, except where otherwise limited by the court, a guardian ad litem (GAL) will make decisions regarding an adult ward's support, care, education, health, and welfare. A GAL will exercise authority only as necessitated by the adult ward's limitations and, to the extent possible, will encourage the adult ward to participate in decisions, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal

affairs.

MUNICIPAL COURT DISCOVERY (Section 479.162)

This bill specifies that in a proceeding for a municipal ordinance violation or any other proceeding before a municipal court if the charge carries the possibility of 15 days or more in jail or confinement, a defendant must not be charged any fee for obtaining a police report or probable cause statement. Such police report or probable cause statement must be provided by the prosecutor upon written request for discovery by the defendant.

COURT REPORTERS (Section 485.060)

Lastly, the bill specifies that, starting January 1, 2022, each court reporter for a circuit judge will receive an annual salary based upon his or her cumulative years of service as a court reporter with a circuit court of this state, based upon a schedule provided in the bill.

COURT COSTS FOR VETERANS (Section 488.016)

The bill specifies that court costs will be fully waived for any person who is an honorably discharged veteran of any branch of the armed forces of the United States and who successfully completes a veterans' treatment court.

ADMISSIBILITY OF EVIDENCE (Section 491.016)

This bill specifies that an otherwise inadmissible witness statement is admissible in evidence in a criminal proceeding as substantive evidence if the court, after a hearing, finds by a preponderance of the evidence that the defendant engaged in or acquiesced to wrongdoing with the purpose of causing the unavailability of the witness, such wrongdoing caused or substantially contributed to the unavailability of the witness, the prosecution exercised due diligence to secure by subpoena or other means the attendance of the witness, and the witness failed to appear.

UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT (Sections 510.500, 510.503, 510.506, 510.509, 510.512, 510.515, 510.518, 510.521)

The bill creates the "Uniform Interstate Depositions and Discovery Act" and provides procedures and processes for when a subpoena for discovery or deposition is submitted in Missouri by a foreign jurisdiction, which is defined in this bill as a state other than Missouri.

CONFIDENTIALITY OF CRIME STOPPERS ORGANIZATIONS (Section 546.265)

This bill provides that no person shall be required to disclose, by way of testimony or otherwise, a privileged communication between a person who submits a report of alleged criminal activity to a crime stoppers organization and the person who accepts the report on behalf of a crime stoppers organization. Additionally, no such person shall be required to produce, under subpoena, any records, documentary evidence, opinions, or decisions relating to such privileged communication in connection with any criminal proceeding or discovery procedure.

This bill also provides that any person arrested or charged with a criminal offense may petition the court for an in-camera inspection of the records of a privileged communication concerning the report such person made to the crime stoppers organization. If the court determines the person is entitled to all or part of such records, the court may order production and disclosure as the court deems appropriate.

CRIMINAL OFFENSES (Sections 488.029 and 556.046)

This bill specifies that a court shall be obligated to charge the jury with respect to an included offense only if it is established by proof of the same or less than all the elements required to establish the commission of the offense charged, there is a rational basis in the evidence for a verdict acquitting the person of the offense charged and convicting the person of the included offense, and either party requests the court to charge the jury with respect to a specific included offense.

Failure of the defendant or defendant's counsel to request the court to charge the jury with respect to a specific included offense shall not be a basis for plain-error review on direct appeal or post-conviction relief. It shall be the trial court's duty to determine if a rational basis in the evidence for a verdict exists.

SENTENCE REVIEW (Section 558.047)

This bill authorizes sentence review for any person who was under 18 years of age at the time of the commission of the offense and has been sentenced to a term of imprisonment for life with or without eligibility for parole, a term of 15 or more years, or multiple terms when taken together amount to 15 or more years. Such person may submit a petition for a review of his or her sentence to the Parole Board after serving 15 years, and every three years thereafter until a presumption release date has been established by the Parole Board.

OFFENSE OF UNLAWFUL POSTING OF CERTAIN INFORMATION ONLINE (Section 565.240)

Currently, a person commits the offense of unlawful posting of certain information over the internet if he or she knowingly posts the name, home address, Social Security number, or telephone number of any person on the Internet intending to cause great bodily harm or death, or threatening to cause great bodily harm or death to such person. Such offense is a Class C misdemeanor.

This bill modifies the current offense by adding "any other personally identifiable information" and further provides that if a person knowingly posts on the Internet the name, home address, Social Security number, telephone number, or any other personally identifiable information of any law enforcement officer, corrections officer, parole officer, judge, commissioner, or prosecuting attorney, or the information of an immediate family member of such officer, judge, commissioner, or prosecuting attorney, he or she shall be guilty of a Class E felony.

SEXUAL MISCONDUCT OF POLICE OFFICERS (Section 566.145)

The bill provides that a law enforcement officer who engages in sexual conduct with a detainee or prisoner who is in the custody of such officer shall be guilty of a class E felony. A person also commits the offense if the person is a probation and parole officer or a police officer or an employee of or a person assigned to work in a jail, prison, or correctional facility and the person has sexual conduct on duty and the offense is committed by means of coercion.

UNLAWFUL USE OF A LASER POINTER (Section 574.110)

This bill creates the offense of using a laser pointer, as defined in the bill, by knowingly directing the light from a laser pointer at a uniformed safety officer, including a peace officer as defined in Section 590.010, RSMo, security guard, firefighter, emergency medical worker, or other uniformed municipal, state, or federal officer. Violation of this offense is a class A misdemeanor.

PEACE OFFICER LICENSURE (Sections 590.030)

Currently, all licensed peace officers, as a condition of licensure, must obtain continuing law enforcement education and maintain a current address of record on file with the POST Commission.

This bill provides that in addition to those requirements for

licensure, peace officers must submit to being fingerprinted on or before January 1, 2022, and every six years thereafter and also submit to fingerprinting for the purposes of a criminal history background check and enrollment in the state and federal Rap Back Program.

Additionally, any time a peace officer is commissioned with a different law enforcement agency he or she must submit to being fingerprinted. The criminal history background check shall include the records of the Federal Bureau of Investigation. The resulting report shall be forwarded to the peace officer's law enforcement agency. The Rap Back enrollment shall be for the purposes of peace officer disciplinary reports as required by law. Law enforcement officers and law enforcement agencies shall take all necessary steps to maintain officer enrollment in Rap Back for as long as an officer is commissioned with that agency. All law enforcement agencies shall enroll in the state and federal Rap Back programs on or before January 1, 2022.

COMMISSIONING REQUIREMENTS OF PEACE OFFICERS (Sections 590.070 and 590.075)

Currently, the chief executive officer of each law enforcement agency must notify the Director of the POST Commission the circumstances surrounding a law enforcement officer's departure from the law enforcement agency within 30 days of the departure.

This bill provides that the chief executive officer of each law enforcement agency shall, prior to commissioning any peace officer, request a certified copy from the Director of all notifications received regarding such peace officer. All notifications provided to the chief executive officer from the Director shall be received within 3 days of the request.

Finally, this bill provides that the chief executive officer of each law enforcement agency has absolute immunity from suit for complying with such notification requirements to the Director, unless the chief executive officer presented false information to the Director with the intention of causing reputational harm to the peace officer. If the Director receives any additional notifications regarding the candidate for commissioning within 60 days of a chief executive officer's request, a copy of such notifications shall be forwarded by the director to the requesting chief executive officer within 3 business days following receipt.

CRITICAL INCIDENT STRESS MANAGEMENT PROGRAM (Section 590.192)

This bill establishes the "Critical Incident Stress Management Program" within the Department of Public Safety. The program shall

provide services for peace officers to assist in coping with stress and potential psychological trauma resulting from a response to a critical incident or emotionally difficult event. A "critical incident" is any event outside the usual realm of human experience that is markedly distressing or evokes reactions of intense fear, helplessness, or horror and involves the perceived threat to a person's physical integrity or the physical integrity of someone else.

This bill provides that all peace officers shall be required to meet with a program service provider once every three to five years for a mental health check-in. The program service provider shall send a notification to the peace officer's commanding officer that he or she completed such check-in. Any information disclosed by a peace officer shall be privileged and shall not be used as evidence in criminal, administrative, or civil proceedings against the peace officer, except as in certain instances as provided in the bill.

Additionally, this bill creates the "988 Public Safety Fund" within the state treasury and shall be used by the Department of Public Safety for the purposes of providing services for peace officers to assist in coping with stress and potential psychological trauma resulting from a response to a critical incident or emotionally difficult event. Such services may include consultation, risk assessment, education, intervention, and other crisis intervention services.

LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS (Section 590.500)

The bill establishes the "Law Enforcement Officers' Bill of Rights".

The bill defines a "law enforcement officer" as any sworn peace officer, except the highest ranking officer in the law enforcement agency, who is employed by any unit of the state or any county, charter county, city, charter city, municipality, district, college, university, or any other political subdivision or by the Board of Police Commissioners, who possesses the power to arrest for violations of the criminal code.

The bill specifies certain rights a law enforcement officer has when he or she is the subject of an administrative investigation or is being questioned or interviewed. These rights include being informed of the violation, requiring the complaint to be supported by a sworn affidavit, and allowing the officer to have an attorney or any duly authorized representative.

The bill provides that any law enforcement officer who is suspended without pay, demoted, terminated, transferred, or placed on a

status resulting in economic loss is entitled to a full due process hearing. The hearing requirements are specified in the bill.

RESPIRATORY CHOKE HOLDS (Section 590.805)

This bill provides that a law enforcement officer is prohibited from knowingly using a respiratory choke-hold unless it is being used in defense of the officer or another person from serious physical injury or death. A "respiratory choke-hold" includes the use of any body part or object to attempt to control or disable a person by applying pressure to the person's neck with the purpose of controlling or restricting the person's breathing.

RECORDS DISCLOSURE (Sections 590.1210, 610.120, and 610.140)

The bill specifies that no law enforcement agency may adopt a policy that requires the closure or redaction of certain information from a public record unless the record or portion of the record is required to be closed or redacted under Chapter 610 or any other provision of law.

POLICE USE OF FORCE DATABASE (Section 590.1265)

This bill establishes the "Police Use of Force Transparency Act of 2021."

Starting March 1, 2022, each law enforcement agency shall, at least annually, collect and report local data on use-of-force incidents involving peace officers to the National Use of Force Data Collection through the Law Enforcement Enterprise Portal administered by the Federal Bureau of Investigation (FBI). Use-of-force incidents shall include fatalities and serious physical injuries that are connected to the use of force by an officer.

Additionally, each law enforcement agency shall submit such information to the Department of Public Safety. The personally identifying information of individual peace officers shall not be included in the reports. The Department of Public Safety shall, no later than October 31, 2021, develop standards and procedures governing the collection and reporting of use-of-force data. The standards shall be consistent with the requirements, definitions, and methods of the National Use of Force Data Collection administered by the FBI.

The Department of Public Safety shall publish the data reported by law enforcement agencies in a publicly available report at least annually starting March, 2023. Finally, the Department of Public Safety shall undertake an analysis of any trends and disparities in rates of use of force by all law enforcement agencies, with a report to be released to the public no later than June 30, 2025.

The report shall be updated at least every five years.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that it is hard time to be a police officer. They work long, hot, mentally and physical grueling hours. Makes it hard for our largest cities to retain and hire. During special session, we removed residency requirement for police in St. Louis and this bill does the same for Kansas City. Police Officers want what is best for their families, want them to be safe, to live close to other family members, and want good schools. Some want to live in a more rural area. We need confidentiality of informants who call into tips hotlines. We also need to enhance background checks for law enforcement officers, RAP Back. This establishes a fund for helping law enforcement officers that experience trauma. This is common sense reform that holds law enforcement accountable but also allows them to do their jobs. They want to make sure they can live somewhere they feel safe. Not everyone will need to live outside of the area but there are people with legitimate reasons to live somewhere else: elderly parents that need help, as well as particular position leads to safety concerns. It isn't about not liking Kansas City. Across the country there are very few municipalities that have residency requirements. They will be close to 300 police officers down in KC by this time next year.

Testifying for the bill were Senator Luetkemeyer; Missouri Coalition Against Domestic and Sexual Violence (MCADSV); Missouri State Troopers Association; Missouri Sheriffs United; Missouri Police Chiefs Association; Cicero Institute; Kendall Martinez Wright; and Brad Lemon, Kansas City Fraternal Order of Police.

OPPONENTS: Those who oppose the bill say that in support of criminal justice reform, they just don't think it is in this bill. These are real and perceived injustices in the Missouri justice system. This is supposed to be criminal justice reform and it creates another felony. This just helps police officers. That is ok, police officers need help; they should be paid more. But the doxing provision could mean that when members of the public call attention to specific incidents by police officers and name the officer, if that officer feels intimidated against if could lead to charges against the protesters. We don't want secret police. We need to repair this failing system. This does nothing for the people that it is supposed to be for. KC is opposed to prohibiting residency requirements for their city. It should be up to the board of police commissioners; local control is the best control.

Shortage is not due to the residency requirement, it is that people don't want to be police officers right now. There has been a budget crisis since COVID and they don't have the funds to fully fund all of the officers that they need. They want their officers to live in their community and be part of their community. The taxpayers should have a right to ask that of the officers they are employing. They know coming in that there is a residency requirement and they are compensated accordingly, one of the highest paid police departments. This isn't the reform that people want.

Testifying against the bill were Rod Chapel, Jr., Missouri State Conference of NAACP; City of Kansas City, Greater Kansas City Chamber of Commerce; Webster Davis, Missouri NAACP; Arnie C. Dienoff; American Civil Liberties Union of Missouri.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.