

HCS SS SCS SBs 775, 751 & 640 -- JUDICIAL PROCEEDINGS

SPONSOR: Thompson-Rehder (Kelly)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Emerging Issues by a vote of 13 to 0. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 10 to 0.

The following is a summary of the House Committee Substitute for SB 775.

This bill modifies provisions relating to judicial proceedings.

COURT RECORDS (Section 476.418, RSMo)

No state court or any employee of a state court shall publicly disclose any confidential information of a living person unless such disclosure is permitted by law.

WITNESSES IN CASES INVOLVING SEXUAL OFFENSES (Section 491.015)

Under current law, in prosecutions related to sexual offenses a witness's prior sexual conduct or specific instances of prior sexual conducts is inadmissible, except in certain instances.

This bill provides that this evidence is inadmissible at any trial, hearing, or court proceeding and not a subject for inquiry during a deposition or during discovery, except in certain instances.

This provision is the same as SB 775 (2022) and SB 534 (2021).

SEXUAL OFFENDERS (Sections 566.149, 566.150, & 566.155)

Under current law, certain offenders shall not knowingly be present in certain areas, such as schools, public parks with playgrounds, public swimming pools, and athletic fields primarily used by children. Additionally, under current law, certain offenders can not serve as an athletic coach or trainer for a sport team if a child less than 17 years of age is a member of the team.

This bill adds that any person found guilty of the offense of possession of child pornography shall not knowingly be present in such areas and shall not serve as an athletic coach.

These provisions are the same as SB 775 (2022) and similar to SB 751 (2022).

OFFENSE OF PROVIDING EXPLICIT SEXUAL MATERIAL TO A STUDENT (Section

573.550)

This bill provides that a person commits the offense of providing explicit sexual material to a student if such person is affiliated with a public or private elementary or secondary school in an official capacity and, knowing of its content and character, such person provides, assigns, supplies, distributes, loans, or coerces acceptance of or the approval of the providing of explicit sexual material to a student or possesses with the purpose of providing, assigning, supplying, distributing, loaning, or coercing acceptance of or the approval of the providing of explicit sexual material to a student.

This offense is a class A misdemeanor.

This provision is the same as SB 775 (2022) and similar to SB 1224 (2022).

SEXUAL ASSAULT SURVIVORS BILL OF RIGHTS (Section 595.201)

Under current law, sexual assault survivors have rights relating to how a criminal investigation regarding a sexual assault must be conducted.

This bill provides that sexual assault survivors retain these rights regardless of whether a criminal investigation or prosecution results or regardless if he or she has previously waived any of these rights. A sexual assault survivor, for purposes of this act, is any person who is 14 years of age or older and who may be a victim of a sexual offense who presents themselves to an appropriate medical provider, law enforcement officer, prosecuting attorney, or court. This bill specifies that a sexual assault survivor has the right to:

- (1) Consult with an employee or volunteer of a rape crisis center;
- (2) A sexual assault forensic examination;
- (3) A shower and change of clothing;
- (4) Request to be examined by an appropriate medical provider or interviewed by a law enforcement officer of the gender of the survivor's choosing, when available;
- (5) An interpreter who can communicate in the language of the sexual assault survivor's choice, as reasonably available;
- (6) Notification and basic overview of the options of choosing a reported evidentiary collection kit, unreported evidentiary

collection kit, and anonymous evidentiary collection kit;

(7) Notification about the evidence tracking system;

(8) Notification about the right to certain information considered a closed record, such as a complete incident report; and

(9) Be free from intimidation, harassment, and abuse in any related criminal or civil proceeding and the right to reasonable protection from the offender.

Additionally, this bill provides that a survivor must be informed of the survivor's rights by a medical provider, law enforcement officer, and a prosecuting attorney in a timely manner. A document shall be developed by the Department of Public Safety, in collaboration with certain Missouri-based stakeholders, which shall be provided to a sexual assault survivor explaining the survivor's rights. The document shall include:

(1) A description of the rights of the sexual assault survivor pursuant to this bill; and

(2) Telephone and internet means for contacting a local rape crisis center.

This bill repeals duplicate rights found in other provisions of current law. Additionally, this bill repeals the requirement that a law enforcement officer shall upon written request provide a free, complete, and unaltered copy of all law enforcement reports concerning the sexual assault within 14 days to the survivor.

These provisions are the same as SB 775 (2022) and SB 640 (2022).

CLOSED RECORDS OF VICTIMS OF SEXUAL ASSAULT (Section 595.226)

Under current law, certain identifiable information of victims of domestic assault or stalking shall be closed and redacted from public record. This bill adds that such identifiable information shall also include, but shall not be limited to, the victim's personal email address, birth date, health status, or any information from a forensic testing report.

This bill also repeals provisions relating to when a court may disclose such identifying information of a victim and provides that any person who is requesting identifying information of a victim and who has a legitimate interest in obtaining such information, may petition the court for an in camera inspection of the records. If the court determines the person is entitled to all or any part of such records, the court may order production and disclosure of

the records, but only if the court determines that the disclosure to the person or entity would not compromise the welfare or safety of the victim.

This provision is the same as SB 775 (2022)

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 this bill is the product of a victims of sexual assault task force that did exhaustive work over the past interim. This bill provides additional and crucial protections to victims by expanding the inadmissibility of certain evidence beyond trial to now include depositions or discovery. The current lack of privacy for survivors makes it difficult for survivors to come forward and seek justice. This current lack of privacy is one of the top reasons survivors currently do not come forward. The rights solidified in this bill will provide survivors who decide to move forward within the legal system a necessary cushion from some of those most traumatic experiences, like cross examination regarding past sexual experiences.

This bill further streamlines and makes more comprehensible the sexual assault survivors bill of rights, making it more consistent with other current law.

Testifying for the bill were Senator Thompson-Rehder; Amy Fite, Missouri Association of Prosecuting Attorney (MAPA); Missouri Coalition Against Domestic And Sexual Violence (MoCADSV); Missouri Kidsfirst; NARAL Pro Choice MO; Arnie C. Dienoff; Missouri Hospital Association; Missouri Association of Prosecuting Attorneys; and the Missouri Office of Prosecution Services.

OPPONENTS: Those who oppose the bill say that while they support the overall intent and purpose of the bill in providing additional protections and support for survivors of sexual assault, they oppose the inclusion of Section 573.550, relating to the provision of explicit sexual material to a student by a school official. This provision has the potential of being a dangerous back door to ban books and target teachers.

Testifying against the bill were Dava-Leigh Brush and Jeff Wolman.

OTHERS: Others testifying on the bill submitted written testimony, which can be found online.

Testifying on the bill was Susan Gibson.

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.