

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

This bill modifies provisions relating to judicial proceedings.

LEGAL TREATIES (Section 1.016, RSMo)

This bill provides that secondary sources, which include legal treatises, scholarly publications, textbooks, or other explanatory texts, do not constitute the law or public policy of the state.

CHILD SEX TRAFFICKING (Sections 210.1500, 210.1505, and 211.031)

This bill provides that when a child is located by a law enforcement official and there is reasonable cause to suspect the child may be a victim of sex trafficking, the law enforcement official shall immediately cause a report to be made to the Children's Division within the Department of Social Services. If the Children's Division determines that the report merits an investigation, the reporting official and the Children's Division shall ensure the immediate safety of the child. If the law enforcement official has reasonable cause to believe the child is in imminent danger, he or she may take temporary custody of the child without the consent of the child's parents.

Additionally, this bill establishes the "Statewide Council on Sex Trafficking and Sexual Exploitation of Children". The membership shall include but not be limited to: two members of the Senate with one member to be appointed by the President Pro Tem and one member to be appointed by the Minority Floor Leader; two members of the House of Representatives with one member to be appointed by the Speaker and one member to be appointed by the Minority Floor Leader; and a member of the Judiciary, who shall be appointed by the Supreme Court. The council shall collect and analyze data relating to sex trafficking of children and develop best practices regarding the response to sex trafficking of children. The Council shall submit a report to the Governor and General Assembly on or before December 31, 2023. The Council shall expire on December 31, 2023.

This bill also provides that the family courts shall have exclusive original jurisdiction in proceedings involving a child who has been a victim of sex trafficking or sexual exploitation.

PROBATION TERMS (Sections 217.703, 559.036, and 559.115)

This bill provides that the total time on any probation term shall not include time when the probation term is suspended, except, at the discretion of the court, when the probation term is suspended by order of the court before a revocation hearing.

As specified in the bill, prior to a revocation of probation, the court shall order the placement of an offender in either the Department of Correction's "Structured Cognitive Behavioral Intervention Program" or "Institutional Treatment Program". It shall be at the sole discretion of the Department which program the offender shall be placed.

Upon the successful completion of either program, the Division of Probation and Parole shall advise the sentencing court of the offender's probationary release date 30 days prior to release. The court shall then order the offender's release to continue to serve the term of probation, which shall not be extended based on the same incident of the probation violation.

If the Department determines the offender has not successfully completed the treatment program, the Division of Probation and Parole shall advise the sentencing court of the offender's unsuccessful program exit. The court may then modify or revoke the offender's probation.

This bill adds that a person is ineligible for probation if he or she has been found guilty of certain dangerous felonies as provided by law.

ORDERS OF PROTECTION (Sections 455.073, 455.075, and 455.085)

This bill provides that if a full order of protection is granted by a court, all temporary orders shall continue in the full order of protection and shall remain in full force and effect unless otherwise ordered by the court.

Additionally, the court may order a party to pay a reasonable amount for the other party's attorney fees incurred throughout the proceeding, in addition to prior to commencement and after entry of judgment for orders of protection.

Currently, a person is deemed to have notice of an order of protection against him or her if a law enforcement officer responding to a call of domestic violence or violation of the order of protection presented a copy of the order. This bill adds that notice is also given by actual communication to the person in a manner reasonably likely to advise him or her.

ELEVENTH JUDICIAL CIRCUIT (Section 478.600)

Beginning January 1, 2007, the treatment court commissioner position in the eleventh judicial circuit became an associate circuit judge position and was designated as Division 11 within the

11th Judicial Circuit, located in St. Charles county. This bill repeals the language designating such position as Division 11 and language requiring that it retain the duties and responsibilities of the treatment court.

WITNESSES IN CASES INVOLVING SEXUAL OFFENSES (Section 491.015)

Currently, 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.

WITNESSES IN DOMESTIC ASSAULT PROCEEDINGS (Sections 546.262 and 546.263)

This bill provides a court shall not compel a victim or member of the victim's family in a domestic assault proceeding to disclose a residential address or place of employment on the record in open court unless the court finds that disclosure of the address or place of employment is necessary.

Additionally, a person may testify by video conference in a civil trial involving a domestic assault if the person testifying is the victim of the offense. The circuit court shall develop rules for appearances by video and shall post these rules on their website.

JURY INSTRUCTIONS (Section 556.046)

This bill provides that the court shall not be obligated to charge the jury with respect to an included offense unless there is a rational basis for a verdict acquitting the person of the offense charged and convicting him or her of the included offense.

Additionally, this bill provides that a court shall be obligated to instruct the jury with respect to a particular included offense only if the instruction is requested and there is a rational basis in evidence for acquitting the person of the immediately higher included offense and convicting the person of that particular included offense.

SEXUAL OFFENSES (Sections 566.010 and 566.086)

This bill expands the definition of "sexual contact" to also include the causing of semen or other ejaculate to come into contact with another person.

Additionally, this bill provides that a person commits the offense of sexual contact with a student if he or she has sexual contact with a student and is a coach, director, or other adult with a school-aged team or club.

SEXUAL OFFENDERS (Sections 566.149, 566.150, 566.155, and 589.404)

Currently, 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 supervise or employ any child under 18 years of age.

This bill modifies the definitions of "sexual conduct" and "sexual contact" for the purposes of sections 589.400 to 589.425. "Sexual conduct" is defined as sexual intercourse, deviate sexual intercourse, or sexual contact, and "sexual contact" is defined as the touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, or causing semen, seminal fluid, or other ejaculate to come into contact with another person, for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

OFFENSE OF PROSTITUTION (Section 567.020)

This bill provides that a person shall not be certified as an adult or adjudicated for the offense of prostitution if the person was under the age of 18 at the time when the offense occurred. Such person shall be classified as a victim of abuse and reported immediately to the Children's Division and to the juvenile officer for appropriate services.

SEXUAL PERFORMANCE BY A CHILD (Sections 573.010, 573.024, and 573.206)

Currently, sexual performance includes sexual conduct by a child who is less than 17 years old. This bill changes the age to 18 years old.

Additionally, this bill creates the offense of patronizing a sexual performance by a child if such person obtains, solicits, or

participates in a sexual performance by a child under the age of 18. This offense is a class C felony.

This bill creates the offense of enabling sexual exploitation of a minor which shall be a person, acting with criminal negligence, permitting or allowing certain sexual or pornography offenses. Such offense is a class E felony for the first offense and a class C felony for any subsequent offenses. Additionally, if the person found guilty of the offense is an owner of a business that provided the location for such exploitation, the business shall be required to close for up to one year for the first offense and shall permanently close after a subsequent offense.

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.

SEXUAL ASSAULT SURVIVORS BILL OF RIGHTS (Section 595.201)

A sexual assault survivor, for purposes of this bill, 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. As specified in this bill, 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 provides that sexual assault survivors retains these rights regardless of whether a criminal investigation or prosecution results or whether he or she has previously waived any of these rights.

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.

CLOSED RECORDS OF VICTIMS OF SEXUAL ASSAULT (Section 595.226)

Currently, certain identifiable information of victims of a sexual offense, domestic assault, or stalking shall be closed and redacted from public record. This bills adds that such identifiable information shall also include, 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.

BATTERER INTERVENTION PROGRAM (Section 595.320)

If a judge orders a person convicted of domestic assault to undergo a batterer intervention program, such person shall be financially responsible for any costs associated with attending such class.

CIVIL DETENTIONS (Section 632.305)

Currently, an application for civil detention for evaluation and treatment may be executed by any adult on a form provided by the court. Such form shall allege that the applicant has reason to believe that the respondent is suffering from a mental disorder and presents a likelihood of serious harm to themselves. Under this bill, such form shall not be required to be notarized.