

HCS SS SCS SB 834 -- CORRECTIONS PROGRAMS

SPONSOR: Luetkemeyer (Evans)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 9 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 834.

The bill establishes the "Correctional Center Nursery Program", which requires the Department of Corrections to establish a correctional center nursery in one or more centers operated by the Department. Mothers who are inmates shall be permitted to reside with infants for up to 18 months. The Program has no effect on child custody and participation is at the discretion of the Department rather than sentencing courts.

Conditions for placement into the Program are mandated by the bill and inmates must enter into a written agreement. Conditions for removal from the Program are also specified in the bill. The Program is paid for by the "Correctional Center Nursery Program Fund", which is created by the bill and which can receive funds by appropriation, assignment of child support by inmates, and gifts, grants, and donations.

The Program is subject to regulation only by the Department of Corrections but can agree to voluntary regulation, licensing, or oversight by the Department of Health and Senior Services or the Department of Social Services.

The bill authorizes rulemaking by the Department of Corrections for administration of the Program. The operation of a Correctional Center Nursery Program and the presence of children of inmates participating in the Program will not, alone, be considered a dangerous condition that would result in a waiver of sovereign immunity.

This bill repeals the provisions of the "Interstate Compact for the Supervision of Parolees and Probation", which permits the Governor to enter into an interstate compact with contracting states to allow people convicted of an offense and placed on probation or released on parole to reside in any other state that is party to the Compact. Currently, all necessary and proper expenses for the return of a person to Missouri under the Interstate Compact for the Supervision of Parolees and Probationers is paid out of the State Treasury. This bill repeals this provision and provides that the

expenses related to a person being returned to Missouri under this Compact will be paid out of either the "Missouri State Compact Fund" or the State Treasury.

The bill specifies that a Missouri probationer or parolee seeking transfer of his or her supervision under the Interstate Compact for Adult Offender Supervision must pay a \$175 fee for each application, unless waived by the Compact Commissioner for an undue economic burden on the offender. The bill establishes the "Missouri Interstate Compact Fund" and all fees collected by the Commissioners shall be paid to the Fund. The money in the Fund must be used for the sole benefit of the Department of Corrections as specified in the bill.

This bill repeals the existing "Missouri Postconviction Drug Treatment Program", but authorizes the Department of Corrections to determine if offenders should be eligible for either a structured cognitive behavioral intervention program or an institutional treatment program. These programs last 120 days and upon successful completion, an offender may be released to continue to serve probation. Terms of probation are not modified by the bill.

If the Department determines that an offender has not completed a program, then it provides notice to the prosecuting attorney and sentencing court which have 10 days to issue a warrant or arrange for further court proceedings before release of an offender. The sentencing court may modify, enlarge, or revoke probation based on failure to complete a program.

The bill specifies that a circuit court for the jurisdiction in which the probationer is under supervision is authorized to add any condition, upon a petition from the state, to a term of probation for an offender supervised in Missouri for a term of probation ordered by another state. The Division of Probation and Parole within the Department of Corrections may submit violation reports to the prosecuting attorney or circuit attorney asking the court to add a condition or sanction to a term of supervision. However, the Division does not have the authorization to reduce, extend, or revoke a term of parole.

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

**PROPONENTS:** Supporters say that this is designed to keep nonviolent female offenders who deliver a baby in prison with their babies and avoid the foster care system, as well as to reduce

recidivism. The goal is to establish a dedicated unit in prison and give participants opportunities to raise their kids. Many states have these nurseries and there are benefits for infants and mothers. Babies in this Program are less likely to experience symptoms of depression and other issues. People worry that the mother and baby will be separated later in life when the mom recidivates but statistics show this is less likely to happen when the babies participate in the Program. The immunity provision was added because of concerns expressed by the Governor's Office because Department of Corrections is not used to maintaining nurseries and, for the implementation period, they felt it was important to provide this immunity. The bill was designed to deal with circumstances of ordinary negligence, but the more egregious type of conduct would be covered under a 1983 civil rights claim. In the nine states that have done this, most of them have had studies conducted and there was a reduction in recidivism. After three years of this Program in New York, only four who have participated recidivated. Indiana had a 50% reduction, and Nebraska had a 39% reduction in a study over years and they had a saving of over \$6 million since they have had the Program. The granting of joint custody would terminate the baby's and mother's participation in the Program because, if there is a parent who is able to take care of the baby, it is preferred that it be out of prison. Missouri pregnancy resource centers and maternity homes would be delighted to participate in the Program and provide diapers and other baby essentials. Having the mother with her baby helps her recover from pregnancy both mentally and physically. Postpartum depression and postpartum anxiety is one of the big reasons of maternal mortality and having the baby with the mother after birth would greatly reduce those conditions. This would provide a direct cost saving from children not going through the foster care system.

Testifying for the bill were Senator Luetkemeyer; Jewish Community Relations Council of St. Louis; Campaign Life Missouri; National Association of Social Workers Missouri Chapter; Sarah Schlemeier, American College of OBGYNs; Missouri Appleseed; Foster Care & Adoptive Care Coalition; Arnie C. Dienoff; and Pro Choice Missouri.

OPPONENTS: There was no opposition voiced to the committee.

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.