

HCS HB 301 -- PUBLIC SAFETY

SPONSOR: Roberts

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Crime Prevention and Public Safety by a vote of 19 to 3. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 6 to 3.

The following is a summary of the House Committee Substitute for HB 301.

SPECIAL PROSECUTOR (Sections 56.110 and 56.601)

This bill allows the Governor to appoint a special prosecutor for a period of up to five years if the rate of homicides in any circuit or prosecuting attorney's jurisdiction exceeds 35 cases per every 100,000 people and, after a review of certain crime statistics, the Governor determines there is a threat to public safety and health. If the Governor makes such a determination he or she shall submit a request to the Missouri Special Prosecutor Appointment Committee to select an attorney to serve as the special prosecutor. The bill creates the "Missouri Special Prosecutor Appointment Committee" which will be comprised of five members, as specified in the bill. If the committee does not give the Governor the name of a person to appoint, within 30 days of the receiving the request, the Governor will select a person himself or herself. The special prosecutor will have exclusive jurisdiction to initiate and prosecute certain offenses as specified in the bill. Funds for the special prosecutor will be provided by the state from the General Revenue Fund. The special prosecutor will have a budget and be authorized to hire up to 15 assistant special prosecuting attorneys and up to 15 staff members. These provisions are subject to an emergency clause.

SERVICES FOR FORMER INMATES (Sections 208.151 and 217.830)

The bill provides that, subject to approval of a state plan amendment by the Centers for Medicare and Medicaid Services, any person who has been released from the custody of the Department of Corrections (DOC) within the previous six months and who does not have access to health insurance through a job or other avenues shall be eligible to receive MO HealthNet benefits for six months. Additionally, DOC must create a policy and procedures outlining for offenders how to obtain various documentation, including his or her birth certificate, Social Security card, and a state identification card, prior to the offender's release.

SPECIAL LICENSE PLATES (Section 301.3175)

The bill directs the Department of Revenue to issue the Back the Blue special license plate for non-apportioned vehicles of any classification for which it issues plates.

CONDITIONS OF RELEASE (Section 544.453)

The bill establishes certain factors that must be considered when a judge or judicial officer sets bail. The factors include whether the person poses a danger, is a flight risk, has committed certain offenses in the last five years, or has failed to appear in court as a condition for probation or parole for certain offenses within the last three years.

MINIMUM PRISON TERMS (Section 558.019)

Currently, certain offenses, including second degree murder, voluntary and involuntary manslaughter, first degree assault, and other offenses, have minimum prison terms for offenders with prior felony convictions.

This bill repeals those provisions relating to certain offenses and provides that all classes of felonies, except controlled substance offenses, shall be subject to minimum prison terms for offenders with prior felony convictions.

The bill also repeals provisions that allow offenders convicted prior to August 28, 2019, to no longer be subject to these minimum prison terms. Such offenders will no longer be subject to the minimum prison terms if they complete certain requirements, such as completing a drug treatment program and passing a drug test prior to release. It also provides that offenders convicted of a sexually violent crime or any unlawful sexual offense under Chapter 566, RSMo, will be required to serve 100% of their sentences prior to being eligible for probation or parole. The bill also clarifies that these provisions do not prohibit offenders from earning credits through DOC for various reasons.

UNLAWFUL FIREARM OFFENSES (Sections 571.030 and 571.070)

The bill provides that a school officer commissioned by the district school board or a school protection officer, as described under Section 160.665 shall not be prohibited from carrying a firearm into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

Current law provides that a person commits the offense of unlawful possession of a firearm if the person knowingly possesses a firearm

and the person has been convicted of a felony. This bill changes the provision to apply only to individuals who have been convicted of a violent felony, as defined in the bill. The bill also specifies that a person commits the offense of unlawful possession of a firearm if the person knowingly has a firearm in his or her possession and the person is either on probation or parole for a nonviolent felony.

LAW ENFORCEMENT (Sections 590.060, 590.1070, and 590.1075)

The bill also specifies that no law enforcement agency or political subdivision empowered by law to maintain a law enforcement agency will contract with any public or private entity to provide law enforcement training unless the entity's instructors and curriculum have been approved by the Department of Public Safety.

The bill also establishes the "Peace Officer Basic Training Tuition Reimbursement Program". Missouri residents who attend a basic law enforcement academy for training required to be a peace officer and who obtain full-time employment with a law enforcement agency, on or after September 1, 2023, may apply to have their tuition reimbursed under the program at a rate of 25% per year of employment, with full tuition reimbursed by the end of four years of employment. Qualifying government entities that pay for a person to attend the academy may submit for tuition reimbursement at the same rate. The POST Commission will be the administrative agency for implementation of the reimbursement program.

The bill also establishes the "Peace Officer Basic Training Tuition Reimbursement Fund", which will consist of moneys appropriated by the General Assembly, as well as any gifts, bequests, or donations, and the funds are to be used solely for the administration of the reimbursement program.

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

PROPOSERS: Supporters say that this seeks to give the Governor the ability to appoint a special prosecutor when reviewed statistics deem it necessary. The rough estimate of homicide cases in St. Louis is twice that of Chicago. Exclusive jurisdiction is needed, versus concurrent, because of consistency. We have a problem and what we are currently doing is not working, so it is better to do exclusive jurisdiction to avoid differences of opinion. The bill provides services for former inmates, including Medicare and Medicaid services as well as making sure they have necessary documents to assist in their success upon their release. The reality is that a lot of people who are released recidivate

when they do not have opportunities for success, and this is something we know has historically contributed to recidivism. It deals with truth in sentencing. Unlawful possession of a firearm is because of juveniles being in possession of a firearm and law enforcement feel like they cannot do anything. There are some incidences in St. Louis where children were found to be in possession of 9mm handguns. Law enforcement training reimbursement provisions, too, for officers who find employment; this helps defray the cost of the academy. The average cost of the academy is \$6,000 but, for some people, especially desirable individuals with good experience, that is too much money to take on at a certain point in life. They want to add a piece about holding people for 48 hours and it is important to balance interests of not holding innocent people for too long and not letting violent offenders out too early. The business community believes crime is an economic issue and it hinders businesses' ability to attract people to the state and businesses to the state. Businesses do not like to be in a top 10 state for personal and property crime. The rising crime rate is affecting economic competitiveness. Property crime is a growing concern and it is a top concern. It is a statewide issue, not just a Kansas City or St. Louis issue. Every business and community in the state is impacted by this. The MO Chamber of Commerce wants to make sure Missouri is open and safe for every business. Some of the local chambers of commerce have great programs for employers to recruit individuals who are coming out of the justice system. No one should have to move neighborhoods to feel safe. We need to make sure when individuals commit crimes they get prosecuted and that we do not train individuals to become criminals in prison but that we train them to become active members of society. St. Louis City voters do not have the ability to recall the prosecutor because she is a county official so it would be the mayor who does it. There is a significant shortage of officers in St. Louis City but it has not been this bad until recently. There has not been a pending application for warrant list this big prior to the current administration.

Testifying in person for the bill were Representative Roberts; Missouri Chamber of Commerce & Industry; MO Tire Industry Association; MO Retailers Association; MO Grocers Association; St. Louis County Police Officers Association; St. Louis Police Officers Association (SLPOA); MO Fraternal Order of Police (MOFOP); Coalition of Surety Bond Agents; and Jay Ashcroft, Missouri Secretary of State.

OPPONENTS: Those who oppose the bill say that the warrant office gets close to 9,000 cases per year. They need to spend more time on the violent cases. Most other prosecuting offices had about the same number of backlogged cases. The Circuit Attorney's office in St. Louis was instructed by the Circuit Attorney to be fully

functioning prior to COVID and made sure they were. They would keep grand jury open without interruption even through COVID because of all the violent cases. The bill seems to assume that the backlog is a backlog of violent cases, but the directions from the start have been to never ever delay violent cases. To the Chief Warrant Officer's knowledge, assistance by the legislature has never been offered. The backlog is about 3,500 cases, but that is not an accurate number because the police have resubmitted in some cases, so it is probably more like 3,000. There are no violent crimes or sex crimes in the backlog. Right now, law enforcement is bringing in everyone they are interested in within 24 hours. They constantly update the backlog number. An attorney was just hired and his or her sole job is to reduce the number of pending warrant applications. The attorney turnover was more abrupt when Ms. Gardner took over, but now it has become more of a natural turnover that the Circuit Attorney's Office normally has. Proliferation of firearms has increased crime as well. There was an exclusion list of officers who they did not want to take cases from because they would "plead the 5th" so they were concerned about taking warrant applications from these officers because they lose credibility as speaking for other officers because they thought maybe it would take away the liberties of other people. If an officer from the list gets involved in a case, they will take testimony from the officer on a case-by-case basis. The officers know they are on the list. Ms. Gardner sends communication to the chief law enforcement official when an officer is added to the list. The police made it news, but the names on the list have remained confidential and it is only shared with attorneys in the office. Jennifer Joyce likely did not have an exclusion list. Repeat offenders never make it to the backlog. Without a warrant, you cannot have any restrictions on a person. About 5,000 cases are declined in a year, approximately. There is no connection between declining/rejecting cases and crime. The office has asked for help on three death penalty cases. They told the court they needed help from the Attorney General's Office and they were rejected by the court. Prosecutor Gardner is doing the best she can and it should not be put on her if the state allows guns all over the place and the state wonders why crime has increased. Self-defense laws in Missouri as well as case law has made the prosecutor's job more difficult. Office policy requires a drug lab report before issuing a warrant. There is always a backup for stuff they are waiting on so that contributes to the backlog. It is not against the law for children to carry firearms in Missouri. They sometimes cite the parent but that is not happening a lot. Castle doctrine and self-defense laws just add another hurdle to prosecuting gun crimes. It is an inescapable reality that this bill disenfranchises voters who have twice now voted for Kim Gardner. She won her second election overwhelmingly. There have been other years with lots of homicides in St. Louis, such as in

the mid-'90s. The '80s and '70s had high homicides, too, but this proposal was never made then. The numbers don't reflect prosecutorial activity; they reflect the city the prosecutors work in. The best way to address crime is to get in front of it, not behind it.

Testifying in person against the bill were Pro Choice Missouri; Locke Thompson, Missouri Association of Prosecuting Attorneys; Redditt Hudson; and Christopher Hinckley, Circuit Attorney's Office.

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

Testifying on the bill were Missouri Foundation For Health; Missouri Coalition Of Recovery Support Providers; and Missouri Association Of Criminal Defense Lawyers.

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