

HCS HB 1659 -- 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 24 to 0. Voted "Do Pass" by the Standing Committee on Rules- Regulatory Oversight by a vote of 9 to 0.

The following is a summary of the House Committee Substitute for HB 1659.

This bill modifies provisions regarding public safety.

JUVENILE OFFENDERS (Sections 211.071, 211.600, 217.345, and 217.690)

Currently, a child between the ages of 12 and 18 may be certified for trial as an adult after a hearing, if requested by the court, the juvenile officer, or the child's custodian. This bill changes the ages to between 14 and 18 years old.

Additionally, under current law, a court is required to hold a hearing to determine whether a child should be certified for trial as an adult if the child commits certain offenses. This bill clarifies that such mandatory certification hearings apply to children between the ages of 12 and 18. The bill also adds dangerous felonies to the list of offenses for which a certification hearing is required.

This bill provides that the Office of State Courts Administrator shall collect certain information as provided in the bill relating to petitions to certify juveniles as adults and make such information publicly available annually.

The bill modifies provisions relating to correctional treatment programs for offenders 18 years of age or younger. The programs shall include physical separation from offenders 18 years of age or older and shall include education programs that award a high school diploma or its equivalent.

Currently, when a person under the age of 18 is sentenced to a term or terms of imprisonment amounting to 15 years or more, that person is eligible for parole after serving 15 years, unless such person was found guilty of murder in the first degree.

This bill adds that such a person will also be ineligible for parole if he or she was found guilty of murder in the second degree when such person knowingly causes the death of another person.

The provisions of Sections 211.071, 211.600, and 217.345, RSMo, are subject to an emergency clause.

#### WRONGFUL CONVICTION (Section 547.031)

Currently, a prosecuting attorney in the jurisdiction in which the person was convicted may file a motion to vacate or set aside the judgment. This bill changes this provision to a prosecutor in the jurisdiction in which charges were filed.

#### PERSISTENT OFFENDERS (Section 558.016)

Currently, the court may sentence a person to an extended term of imprisonment if such person is a persistent offender. This bill modifies the definition of "persistent offender" to include a person who has previously been found guilty of a dangerous felony as defined in law.

#### ARMED CRIMINAL ACTION (Sections 558.019 and 571.015)

Currently, certain offenses are excluded from minimum prison terms for offenders who also have prior felony convictions. This bill repeals the exclusion of the offense of armed criminal action.

This bill provides that the offense of armed criminal action will be an unclassified felony.

#### CYBERSTALKING AND HARASSMENT TASK FORCE (Section 565.258)

This bill creates the "Stop Cyberstalking and Harassment Task Force". The task force members are specified in the bill and include two members of the House of Representatives appointed by the Speaker of the House and two members of the Senate appointed by the President Pro Tem of the Senate. The Task Force shall elect a chairperson and shall hold an initial meeting before October 1, 2024.

The Task Force shall collect feedback from stakeholders, which may include victims, law enforcement, victim advocates, and digital evidence and forensics experts. The Task Force shall make recommendations on what resources and tools are needed to stop cyberstalking and harassment, as specified in the bill.

The Task Force shall submit a report to the Governor and General Assembly on or before December 31 of each year and the Task Force shall expire on December 31, 2026, unless the Department of Public Safety determines the Task Force should be extended until December 31, 2028.

ENDANGERING THE WELFARE OF A CHILD (Section 568.045)

This bill adds to the offense of endangering the welfare of a child in the first degree when any person knowingly encourages, aids, or causes a child less than 17 years of age to engage in any conduct violating the law relating to weapons offenses. Under the provisions of the bill, any such person shall be guilty of a class D felony.

This provision is subject to an emergency clause.

UNLAWFUL DISCHARGE OF A FIREARM (Section 571.031)

This bill establishes "Blair's Law", which specifies that a person commits the offense of unlawful discharge of a firearm if, with criminal negligence, he or she discharges a firearm within or into the limits of a municipality. Any such person shall be guilty of a class A misdemeanor for the first offense, a class E felony for the second offense, and a class D felony for any third or subsequent offense. These provisions will not apply if the firearm is discharged under circumstances as provided in the bill.

UNLAWFUL POSSESSION OF A FIREARM (Section 571.070)

Currently, unlawful possession of a firearm is a class D felony, unless a person has been convicted of a dangerous felony, in which case it is a class C felony.

This bill changes the penalty for the offense to a class C felony, unless a person has been convicted of a dangerous felony or the person has a prior conviction for unlawful possession of a firearm, in which case it is a class B felony.

LAW ENFORCEMENT ANIMALS (Sections 575.010, 575.353, 578.007, and 578.022)

This bill creates "Max's Law."

Currently, the offense of assault on a law enforcement animal is a class C misdemeanor.

This bill provides that the offense of assault on a law enforcement animal is a class A misdemeanor if the law enforcement animal is not injured to the point of requiring veterinary care or treatment; a class E felony if the law enforcement animal is seriously injured to the point of requiring veterinary care or treatment; and a class D felony if the assault results in the death of such animal.

Additionally, exemptions to the offenses of agroterrorism, animal neglect, and animal abuse shall not apply to the killing or injuring of a law enforcement animal while the animal is working.

Finally, this bill adds that any dog that is owned by or in the service of a law enforcement agency and that bites or injures another animal or human is exempt from the penalties of the offense of animal abuse.

DRUG TRAFFICKING (Sections 579.021, 579.022, 579.065, and 579.068)

This bill creates the offense of delivery of a controlled substance causing serious physical injury, which is a class C felony, and it creates the offense of delivery of a controlled substance causing death, which is a class A felony. For the purposes of these sections, the term "controlled substance" is limited to Schedule I and Schedule II controlled substances.

Additionally, under current law, a person commits the offense of drug trafficking in the first or second degree if he or she is distributing or purchasing more than 8 grams or more than 24 grams of a mixture containing a cocaine base. This bill repeals those provisions.

CIVILIAN OVERSIGHT DIVISIONS (Section 590.653)

This bill allows a city, county, or the City of St. Louis to establish a division of civilian oversight or any other entity that provides civilian review oversight of police agencies; currently such political subdivisions are authorized to establish a civilian review board. The board, division or other entity has power solely limited to receiving, investigating, making findings, and recommending disciplinary action upon complaints by members of the public against members of the police department.

OFFICE OF PUBLIC DEFENDER (Section 600.042)

This bill creates the "Public Defender - Federal and Other Fund" and requires moneys from any government grant, private gift, donation, bequest, or other sources to be deposited into the fund. The money must be used for the sole purpose of funding local offices of the Office of the State Public Defender.

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 the bill started as HB 301 from last year, and that bill had the provision related to the special prosecutor. This bill also includes a lot of language from SB 189 from last year, but it excludes the language the Governor did not like. Businesses are very concerned with rising crime in the state and they think it is affecting our economic success in the state. Businesses are also affected by celebratory gunfire, like windows broken in car lots and in businesses. They want to do everything we can to enhance public safety and deter crime in the state so businesses will want to come to do business here. We need to strengthen penalties, and we need to get the message out that, if you use a gun to commit a crime, you will go to prison. Witnesses are concerned with the deaths they are seeing from fentanyl. It makes no sense to need to prove that the drug was mixed with another drug before you can prosecute. This is not meant to go after spouses sharing prescription medications or lower level drugs. This is meant to tackle distribution of schedule I and II controlled substances. For the wrongful conviction piece, it is being changed so that only the prosecutor who tried the case has the ability to file a motion to set aside a conviction. The existing juvenile certification statute needs updating and that is in the bill, setting an age range for the mandatory certification hearings. Currently the youngest age recommendation for detention of a juvenile is 12 years old and that is why the mandatory certification hearing age minimum is 12 years old. There is a federal law that has been around for a while regarding injuring a law enforcement animal. A lot of times even the presence of a law enforcement animal is enough to stop incidences from happening. There are many examples of why law enforcement animals are so important, so the enhanced penalties are necessary.

Testifying in person for the bill were Representative Roberts; Missouri Association of Prosecuting Attorneys; Missouri Office of Prosecution Services; Michele Shanahan Demoss; Missouri Retailers Association; Missouri Grocers Association; United States Police Canine Association - Region 16; Missouri Sheriffs United; City of Kansas City; Mo State Troopers Association; Greater KC Chamber; Civil Council of Greater Kansas City; Mo Fraternal Order of Police; St. Louis Police Officers Association; Kansas City Fraternal Order of Police; K.C.P.D.- Board of Police Commissioners; Mo Juvenile Justice Association; Justice Action Network; Mo Chamber of Commerce & Industry; and Missouri Police Chiefs Association.

OPPONENTS: Those who oppose the bill say that do not like the armed criminal action piece because they think it will add to mandatory minimums.

Testifying in person against the bill was Alex Eaton, Families against Mandatory (FAMM).

OTHERS: Others testifying on the bill say that, currently, the public defender is not allowed to receive private gifts. In 2020, a generous donor donated a lot of money to be able to hire contract counsel, but the office was not allowed to receive the gift. It had to go into general revenue, so they could not assure the donor that the money would be used for its intended purpose. So the piece in the bill related to the Public Defender's Office Fund would be used to meet federal standards and the office would be in the position to receive federal grant funds.

Testifying in person on the bill was J. Gregory Mermelstein, Missouri State Public Defender.

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.