

HCS HB 1763 -- PROSECUTING AND CIRCUIT ATTORNEYS

SPONSOR: Hicks

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Government Accountability by a vote of 11 to 2. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 6 to 2.

The following is a summary of the House Committee Substitute for HB 1763.

This bill requires that, beginning January 1, 2027, all police officers statewide, county sheriffs and their deputies, and city law enforcement officials and their officers submit referrals for any traffic violation, ordinance violation, or misdemeanor or felony offense to Prosecuting or Circuit Attorneys in the form and manner approved by the Missouri Office of Prosecution Services. For felony offenses, referrals must include a probable cause statement and an investigative report.

Currently, prosecuting attorneys are eligible to receive \$2000 of their authorized salary if they complete a minimum of 20 hours of annual classroom instruction related to the operations of their office, approved by a professional association of Missouri county prosecuting attorneys. Exemption from this training is possible if approved by the professional association. Upon completion, the professional association provides a certificate to each Prosecuting Attorney, and a list of certified attorneys is sent to treasurer of each county. This bill specifies that these provisions will also apply to the City of Saint Louis.

This bill requires that 10% of a Prosecuting Attorney's salary will be paid only if they collect and make accessible the data described in this bill, following an approved method by the Prosecutors Coordinators Training Council. The Missouri Office of Prosecution Services will issue a certificate of compliance to attorneys who adhere to this requirement, and a list of certified attorneys will be sent to the respective treasurer of each county or city. Additionally, 5% of the salary will be paid if the Prosecuting Attorney provides discovery according to an approved method by the Prosecutors Coordinators Training Council.

This bill establishes the "Prosecuting and Circuit Attorney Review Committee" to review complaints formally lodged with the Committee. The Committee will consist of the Executive Director for the Missouri Office of Prosecution Services (MOPS) and four current or former elected prosecuting or circuit attorneys appointed by the Council. Two of the members must have been elected as Republicans

and two of the members must have been elected as Democrats. The four members must have served a minimum of two full terms as an elected or appointed prosecuting or circuit attorney. The appointments must be made by December 1st and the initial members will start on January 1, 2028. If a vacancy occurs during a term, a qualified current or former prosecuting or circuit attorney will be selected to finish the existing term and a member must not serve more than three terms or 12 years.

A formal complaint will be made to MOPS when there is a threat to public safety and health in a jurisdiction. A threat to public safety and health in a jurisdiction is considered to exist if:

- (1) The number of occurrences of homicide cases in the 24 months immediately preceding exceeds a rate of 35 cases per every 100,000 people within the prosecuting or circuit attorney's jurisdiction;
- (2) The prosecuting or circuit attorney has specified cases that include murder, assault, sodomy, rape, robbery, vehicle hijacking and armed criminal action, and the prosecuting or circuit attorney has not filed charges, requested further investigation, or refused to file charges within 10 days; or
- (3) Additional investigation has been requested and a decision to file or not to file has not been made in these specified criminal offenses within six months.

This bill requires that the Executive Director convenes a meeting of the Committee within 10 business days of the receipt of a formal complaint. The Committee meetings will be closed and any complaints, correspondences, votes, or remediation recommendations are closed records. Any request to the Governor, to appoint a special prosecuting attorney, will be an open record.

If the complaint meets the requirements to be considered a formal complaint, the Committee must deliver the complaint to the prosecuting or circuit attorney, as specified in the bill. The prosecuting or circuit attorney has 10 business days to respond and may provide any relevant information. The Committee has 10 business days to review all information and any data maintained by MOPS. The Committee, by a vote of four or more, may determine that there is a threat to public safety or health within the jurisdiction and the prosecuting or circuit attorney's professional acts or omissions have created or substantially contributed to the threat to public safety or health.

If a determination is made, the Committee, by a vote of three or more members, shall:

(1) Immediately request the Governor to appoint a special prosecuting or circuit attorney to prosecute specified criminal offenses; or

(2) Immediately make recommendations to the prosecuting or circuit attorney for remediation with a time line for implementation and a review date within six months of the recommendation.

If the Committee makes recommendations for remediation, the Committee shall assess the effectiveness of the remediation at the conclusion of the six month period. If the Committee determines by a vote of three or more members that there is no longer a threat to public safety or health or that the prosecuting or circuit attorney's professional acts or omissions are not creating or substantially contributing to a threat to public safety or health, the Committee shall issue a finding as such and the finding will be an open record.

If the Committee finds by a vote of three or more members that there is a threat to public safety or health and that the prosecuting or circuit attorney's professional acts or omissions are creating or substantially contributing to the threat to public safety or health, the Committee shall immediately request the Governor to appoint a special prosecuting attorney to prosecute specified criminal offenses and this finding will be an open record. Upon the request of the Committee, the Governor may appoint a special prosecuting attorney to serve for a specified term that does not to exceed the term of the current elected prosecuting or circuit attorney. The special prosecuting attorney will have exclusive jurisdiction to initiate and prosecute felony offenses that include murder, assault, rape, sodomy, robbery, vehicle hijacking, and armed criminal action, as specified in the bill.

If a special prosecuting attorney files criminal charges they will also have exclusive jurisdiction over any other charges stemming from the same criminal event. If the prosecuting or circuit attorney has commenced prosecution prior to the appointment of the special prosecuting attorney they shall immediately withdraw from the prosecution and the special prosecuting attorney may adopt or amend any complaint, information, or indictment filed by the prosecuting or circuit attorney.

Moneys for the special prosecuting attorney will be provided from the General Revenue Fund. The special prosecuting attorney will be paid the same salary as an associate circuit court judge and, upon appointment, become a member of the Prosecuting Attorneys and Circuit Attorneys' Retirement System. The special prosecuting attorney's provided budget will include funds to hire up to 15

assistant special prosecuting attorneys and up to 15 staff members and the salaries of all employees hired by the special prosecuting attorney are determined by the special prosecuting attorney but must be within the budget provided by the State.

Six months prior to the end of the special prosecuting attorney's term the Committee will meet and determine by a vote of three or more votes:

(a) Whether a threat to public safety or health exists; and

(b) Whether the current prosecuting or circuit attorney's professional acts or omissions are creating or substantially contributing to the threat to public safety or health.

If the Committee finds that a threat to public safety or health exists and the current prosecuting or circuit attorney is the cause of the threat the Committee will request the Governor to reappoint the special prosecuting attorney or to appoint another special prosecuting attorney. The Committee may recommend that the Governor appoint the special prosecuting attorney for up to five years.

This bill requires MOPS to produce a statewide report based on data from an approved automated case management system beginning March 31, 2028 and annually thereafter. The report will cover various aspects including the total number of felonies, misdemeanors, and infractions received and processed by Prosecuting and Circuit Attorney offices, as well as specific details such as the number of referrals, cases filed, refused, disposed, and under review. It also mandates the reporting of data on charges by statute number and charge code. These reports are considered public records, but individual data from each office is confidential and not subject to release under Section 610.100 (arrest and incident records).

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 bill is about keeping public safety at the forefront. In theory, prosecution should be consistent whether a crime is committed in Saint Louis or Kansas City or somewhere else in the State. However, in practice, this is not the case.

Testifying in person for the bill were Representative Hicks; Darrell L. Moore, Missouri Association of Prosecuting Attorney; Mo Office of Prosecution Services; James Harris, Cicero Action, Opportunity Solutions Project.

OPPONENTS: Those who oppose the bill say that the legislature should respect the vote of the local people who choose their prosecutor.

Testifying in person against the bill was Sharon Geuea Jones, Mo State Conference of the NAACP.

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.