

HCS HB 83 -- CIVIL JURISPRUDENCE

SPONSOR: Veit

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 8 to 0. Voted "Do Pass" by the Standing Committee on Rules-Legislative by a vote of 7 to 2.

The following is a summary of the House Committee Substitute for HB 83.

BIRTH, DEATH, AND MARRIAGE RECORDS (Section 193.265, RSMo)

The bill waives any required fees for the issuance or copy of a birth certificate if the request is made by a prosecuting or circuit attorney or the Attorney General.

MISSOURI UNIFORM FIDUCIARY INCOME AND PRINCIPAL ACT (Sections 214.330 and 469.399 to 469.487)

This bill specifies that the income and principal of the Endowed Care Trust Fund is determined under the laws applicable to trusts with an exception that the trustee has no power: of adjustment; of conversion; to determine or modify the unitrust rate or to determine applicable value to compute the unitrust amount beyond that granted by law. A unitrust definition of income must be determined by the cemetery operator in the terms of the Endowed Care Trust Fund Agreement and not by the trustee. Further, no principal from the Trust Fund will be distributed except if a unitrust amount is required under the Agreement. The cemetery operator may instruct by record for the trustee to distribute less than all the income distributable for the year if the cemetery operator determines that the money is not needed.

The bill establishes the "Missouri Uniform Fiduciary Income and Principal Act" (MUFIPA). Certain provisions of the current Principal and Income Act (PIA) are updated to achieve compliance with the MUFIPA.

This bill modifies certain definitions and adds definitions. It also removes reference to current definitions of "income beneficiary", "qualified beneficiary", and "remainder beneficiary".

The bill provides that the MUFIPA applies to a trust or estate and a life estate or other term interest in which the interest of one or more persons will be succeeded by the interest of one or more other persons, except as otherwise provided in the terms of a trust or in MUFIPA. In addition, the MUFIPA applies when Missouri is the principal place of administration of a trust or estate or the situs

of property that is not held in a trust or estate and is subject to a life estate or other term interest.

This bill details the fiduciary's duties including the power to adjust or convert an income trust to a unitrust and vice versa. In addition, the bill specifies the business or other activity conducted by the fiduciary that the fiduciary may account separately, as specified in the bill. This bill calls for the application of MUFIPA to a trust or estate existing or created on or after August 28, 2025, with exceptions.

The bill defines "unitrust" to mean a trust for which net income is an amount computed by multiplying a determined value of a trust by a determined percentage, including a trust for which under the terms the income or net income must or can be calculated in such way.

The provisions that apply to unitrusts do not create a duty to take or consider action or to inform a beneficiary about the applicability of the provisions. A fiduciary that in good faith takes or fails to take an action under the unitrust provisions is not liable to a person affected by the action or inaction. The bill details the actions that the fiduciary can take without court approval.

The bill specifies determinations, considerations, and procedures required of a fiduciary in taking actions. The requirements include sending a notice in a record, describing and proposing to take the action, to certain persons all as detailed in the bill. The MUFIPA includes provisions allowing these persons to object to a proposed action, where the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications, or prevented. The bill contains requirements relating to the unitrust policy and unitrust rate.

This bill provides for uniformity in the interpretation and application of the MUFIPA; contains a severability clause; and explains MUFIPA's interaction with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et Seq.

CHANGES OF ATTORNEYS IN WORKERS' COMPENSATION CASES (Sections 287.200 and 287.470)

The bill permits the Labor and Industrial Relations Commission to change the name, information, or fee arrangement of the attorney or law firm representing a claimant upon the filing of a written agreement, signed by both the claimant and the attorney, with the Commission. Additionally, a lifetime payment for permanent total disability will be suspended during the time in which an employee

is restored to his or her regular work or its equivalent through the use of glasses, prosthetic appliances, or physical rehabilitation.

COMPLAINTS, DISCIPLINE, AND REMOVAL OF ADMINISTRATIVE LAW JUDGES (Sections 287.610 and 621.045)

Current law requires a retention vote be taken by the Administrative Law Judge Review Committee with respect to each workers' compensation Administrative Law Judge (ALJ). Additionally, the Committee is required to conduct performance audits periodically and make recommendations of confidence or no confidence with respect to each ALJ. This bill repeals these requirements and instead creates new provisions for filing complaints against and removing ALJs.

Prior to filing a complaint, the Director must notify the ALJ in writing of the reasons for the complaint. Special provisions are included if the reason for the complaint is willful neglect of duty or incompetency.

Upon a finding by the Administrative Hearing Commission (AHC) that the grounds for disciplinary action are met, the Director may, singly or in combination, issue the disciplinary actions against the ALJ, as specified in the bill, including removal or suspension from office. If there are no grounds for disciplinary action, the ALJ will immediately resume duties and receive any attorneys' fees due under current law.

The bill repeals a requirement that the Committee's members not have any direct or indirect employment or financial connection with a workers' compensation insurance company, claims adjustment company, health care provider nor be a practicing workers' compensation attorney. The bill additionally repeals a requirement that all members of the Committee have a working knowledge of workers' compensation.

PAYMENT AND RETIREMENT BENEFITS OF ADMINISTRATIVE LAW JUDGES (Sections 287.615, 287.812, and 287.835)

The bill provides that the compensation for an ALJ and chief administrative law judges will be determined solely by the rate outlined in law and will not increase when pay raises for executive employees are appropriated.

The bill furthermore repeals reference to the position of Chief Legal Counsel.

The bill repeals a prohibition on the payment of any retirement benefits under workers' compensation law to any administrative law judge who has been removed from office by impeachment or for misconduct, or to any person who has been disbarred from the practice of law, or to the beneficiary of any such persons.

COURT DISSOLUTION OF A LIMITED LIABILITY COMPANY (Section 347.143)

Currently, a limited liability company (LLC) may be dissolved involuntarily by a decree of the circuit court located in the county of the registered office of the LLC upon application by or for a member of the LLC when it is not reasonably practicable to carry on business in conformity with the operating agreement.

This bill expands the circumstances under which an LLC may be dissolved to include when a court determines that:

- (1) Dissolution is reasonably necessary for the protection of the rights or interests of complaining members;
- (2) The business of the LLC has been abandoned;
- (3) The management of the LLC is deadlocked or subject to internal dissension, or
- (4) Those in control of the LLC have been found guilty of, or have knowingly allowed persistent and pervasive fraud, mismanagement, or abuse of authority.

UNIFORM UNREGULATED CHILD CUSTODY TRANSFER ACT (Sections 453.700 to 453.742)

The bill establishes the "Uniform Unregulated Child Custody Transfer Act", which specifies that a parent or guardian of a child or an individual with whom a child has been placed for adoption may not transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child. That type of transfer is only allowed through the methods specified in the bill.

A person may not receive custody of a child, or act as an intermediary in a transfer of custody of a child, if the person knows or reasonably should know the transfer violates any provision in the bill. The person must notify Children's Division within the Department of Social Services of the transfer violation as soon as practicable. A violation of this matter is a class B misdemeanor.

If the Children's Division has a reasonable basis to believe that a person has transferred or will transfer custody of a child in

violation of the provisions in this bill, the Children's Division may conduct a home visit as provided by law and take appropriate action to protect the welfare of the child. Law enforcement agencies may also investigate a possible violation of the provisions in this bill.

If the Children's Division conducts a home visit for a child adopted or placed through an inter-country adoption, the Children's Divisions must:

- (1) Prepare a report on the welfare and plan for permanent placement of the child; and
- (2) Provide a copy to the United States Department of State.

A person may not solicit or advertise to find a person or child in violation of the provisions in the bill nor to act as an intermediary in violation of the provisions in this bill. A violation of this matter is as class B misdemeanor.

Within a reasonable time before a child-placing agency places a child for adoption with a prospective adoptive parent, the agency must provide or have provided to the prospective adoptive parent general adoption information, which should address the information as described in the bill, as well as information specific to the child that is known to or reasonably obtainable by the agency and material to the prospective adoptive parent's informed decision to adopt the child, which must include information as specified in the bill. Also, a child-placing agency must provide or have provided to the prospective adoptive parent guidance and instruction specific to the child to help prepare the parent to respond effectively to needs of the child, which must address issues as specified in the bill. If new information is discovered by the child-placing agency at any point in the adoption process, it must provide that information to the prospective parent.

Upon request from the child or the adoptive parent, the child-placing agency or the Children's Division will provide information about how to obtain financial assistance or support services:

- (1) To assist the child or parent to respond effectively to adjustment, behavioral health, and other challenges; and
- (2) To help preserve the placement or adoption.

The Children's Division and law enforcement can initiate proceedings to determine whether a child-placing agency has failed to comply with the provisions in the bill, which can result in either law enforcement filing for injunctive relief or initiating

an administrative proceeding, or Children's Division suspending or revoking the agency's license.

The provisions in this bill do not apply to custody of an Indian child, as defined in Section 4(4) of the Indian Child Welfare Act of 1978, 25 U.S.C. Section 1903(4), as amended, to the extent custody is governed by the Indian Child Welfare Act of 1978, 25 U.S.C. Sections 1901 through 1963, as amended.

CLASSIFICATION OF MINORS FOR ORDERS OF PROTECTION (Sections 455.010, 455.035, and 455.513)

This bill modifies the definitions of "adult" and "child" in provisions relating to orders of protection. An "adult" is any person 18, instead of 17, years of age or older and a "child" is any person under 18, instead of 17, years of age unless he or she is otherwise emancipated.

MISSOURI ELECTRONIC WILLS AND ELECTRONIC ESTATE PLANNING DOCUMENTS ACT (Sections 474.540 to 474.564 and 474.600)

The bill establishes the "Missouri Electronic Wills and Electronic Estate Planning Documents Act", which specifies that an electronic will is considered a will for all purposes of the law of this State and that any written estate planning document may be executed electronically. An "electronic will" is defined in the bill as a record that is readable as text at the time of signing, is signed by the testator or another individual in the testator's name, and is signed in the physical or electronic presence of the testator by at least two individuals after witnessing the signing of the will or the testator's acknowledgment of the signing of the will or acknowledgment of the will itself. Types of estate planning documents include a power of attorney or durable power of attorney, an advance directive, an irrevocable trust, and a beneficiary deed, as well as other types of documents. The bill establishes a process by which an electronic will may be made self-proved as well as how all or part of an electronic will may be revoked.

If there is evidence that a testator signed an electronic will and neither an electronic will nor a certified paper copy of the electronic will can be found after the testator's death, there will be a presumption that the testator revoked the electronic will even if no instrument or later will revoking the electronic will can be located. A person may create a certified paper copy of an electronic will or an electronic estate planning document by affirming under penalty of perjury that a paper copy of the electronic will is a complete, true, and accurate copy of the electronic will or the estate planning document.

The provisions of this bill apply to the will of a decedent who dies on or after August 28, 2025, and to each other written estate planning document signed or remotely witnessed on or after August 28, 2025.

The bill also specifies that certain estate planning documents that were executed during the period between April 6, 2020, and December 31, 2021, during which a state of emergency existed due to COVID-19 and there was a temporary suspension of physical appearance requirements, will be deemed to have satisfied the physical presence requirements if certain requirements, specified in the bill, were met.

CONFIDENTIALITY OF CERTAIN CASES IN COURT CASE MANAGEMENT SYSTEM (Section 476.1025)

This bill provides that a parent, spouse, child, or personal representative of a person who was convicted of a misdemeanor offense may file a motion with a copy of the death certificate in the court of conviction to have the record made confidential on any automated case management system if the person has been deceased for six months or more. Prior to making the conviction confidential, the court must determine whether any person would be unfairly prejudiced by the confidentiality of the conviction.

FUNDING OF BASIC CIVIL LEGAL SERVICES FOR CERTAIN PERSONS (Section 477.650)

Currently, the provision of law establishing the Basic Civil Legal Services Fund, which provides funding to legal services organizations in this state to provide civil legal services and representation to eligible low-income persons, is set to expire on December 31, 2025. This bill repeals the expiration date.

MENTAL HEALTH TREATMENT COURTS (Section 478.001)

The bill adds mental health courts to the list of treatment court divisions, defined as a court focused on addressing the mental health disorder or co-occurring disorder of defendants charged with a criminal offense. This bill specifies that a mental health treatment court may be established by any circuit court to provide an alternative for the judicial system to dispose of cases that stem from a mental health disorder or co-occurring disorder.

REFERENCES TO THE CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (Section 487.110)

The bill modifies references to the title and sections of law of Uniform Child Custody Jurisdiction Act, which was repealed in 2009,

to the Uniform Child Custody Jurisdiction and Enforcement Act for the provision relating to child custody proceedings in family courts.

COMPENSATION OF JURORS (Sections 488.040 and 494.455)

This bill specifies that each grand and petit juror will receive at least \$6 per day for every day the juror actually serves and a mileage reimbursement rate as provided by law for State employees. Each county and the City of St. Louis may authorize additional compensation for its jurors. Alternatively, the court of a judicial circuit may, by a majority vote, vote to restructure juror compensation so that grand and petit jurors do not get paid for the first two days of service but thereafter will receive \$50 per day, as well as mileage reimbursement at the rate provided by law for State employees for necessary travel from the juror's residence to the courthouse and back, to be paid by the county.

CIVIL CASE FILING SURCHARGE (Section 488.426)

Currently, any circuit court may collect a civil case filing surcharge of an amount not to exceed \$15 for the maintenance of a law library, the county's or circuit's family services and justice fund, or courtroom renovation and technology enhancement. If the circuit court reimburses the state for salaries of family court commissioners or is the circuit court in Jackson County, the surcharge may be up to \$20. The bill provides that the circuit court in the City of St. Louis may charge a filing surcharge up to \$20.

EXCLUSION OF PERSONAL INFORMATION IN COURT DOCUMENTS (Section 509.520)

Currently, certain information must be excluded from pleadings, attachments, exhibits, judgments, orders, or other records of the court but must be included in a confidential information sheet filed with the court, which will not be subject to public inspection or availability. This bill modifies the provision to include information concerning a witness in a criminal case that is confidential as otherwise provided by law or rule and any other information redacted for good cause by order of the court.

UNIFORM INTERSTATE DEPOSITION AND DISCOVERY ACT (Sections 510.500 to 510.521)

The bill establishes the "Uniform Interstate Depositions and Discovery Act". This bill provides procedures and processes for when a subpoena for discovery or a deposition is submitted in Missouri by a party in a foreign jurisdiction.

UNIFORM PUBLIC EXPRESSION PROTECTION ACT (Section 537.529)

The bill establishes the "Uniform Public Expression Protection Act".

This bill relates to causes of action filed against individuals who exercise certain Constitutional rights. The bill specifies that, when a person, defined in the bill as "an individual, estate, trust, partnership, business or nonprofit entity, governmental unit, or other legal entity", has a cause of action filed against them based upon their communication in a governmental proceeding or on an issue under consideration in a governmental proceeding, or when they exercise their right of freedom of speech or of the press, the right to assemble, or the right of association, that person may file a special motion to dismiss the cause of action.

This bill establishes procedures for such special motions to dismiss. The bill specifies under which circumstances a court may award costs, reasonable attorneys' fees, and reasonable litigation expenses. The provisions of the bill apply to civil actions filed on or after August 28, 2025.

INFORMATION RECEIVED BY PROBATION AND PAROLE OFFICERS (Section 559.125)

This bill modifies provisions relating to privileged information received by probation or parole officers which must not be receivable in any court except for criminal proceedings.

CRIME VICTIMS' COMPENSATION FUND (Section 595.045)

This bill adds that a person who pleads guilty to a class E felony must pay a fee of \$46 payable to the Crime Victims' Compensation Fund.

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 all the language in this bill passed out of committee last year but died late in the session. The sponsor explained the various provisions in the bill. This bill has taken many forms over the years related to administrative law judges, but the ultimate goal is to ensure citizen service and to ensure due process provided in law, but the status quo is outdated. The removal process with no confidence votes takes too long so it makes it challenging to remove judges who are not doing their jobs, and it makes it more difficult for Department of Labor

cases to be handled efficiently. The juror pay alternative structure has been used successfully in Greene County for the better part of 10 years. It is optional and it is up to the governing body of a county to choose whether to implement the alternative pay structure. Because Legal Aid has been working, the sunset clause for that section should be repealed to ensure a continued funding mechanism. Multiple witnesses were particularly supportive of the anti-SLAPP language because of the need to ensure citizens' right to free speech is preserved. There are 31 states that currently have something similar on the books. Current statute does not provide how a court is meant to decide a SLAPP case. The fix for the crime victims' compensation fund to include E felonies is necessary because it was inadvertently left out of the section during the criminal code revision. It was accidentally forgotten in the criminal code revision in 2017. The language allowing for video testimony for minor victims and witnesses is also crucial to preserve the safety of children and to protect them from re-traumatization. Right now it includes minors under 14, but it should include minors up to 18, since they are considered minors in the State.

Testifying in person for the bill were Representative Veit; Missouri Bankers Association; Eric Jennings, Judicial Conference of Missouri; Parke Stevens; Missouri Network of Child Advocacy Centers Inc.; Associated Industries of Missouri; The Missouri Bar; Institute for Free Speech; Legal Services of Eastern and Southern Missouri; Missouri Press Association; Department of Labor and Industrial Relations; Locke Thompson, Missouri Association of Prosecuting Attorneys; Missouri Retailers Association.

OPPONENTS: There was no opposition voiced to the committee.

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.