

HCS SS SB 43 -- CHILD PROTECTION

SPONSOR: Fitzwater

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 10 to 1. Voted "Do Pass" by the Standing Committee on Rules-Legislative by a vote of 8 to 0.

The following is a summary of the House Committee Substitute for SB 43.

Current law authorizes a tax credit for contributions made to CASAs, child advocacy centers, and crisis care centers, as those terms are defined in the bill, with such tax credit equal to 50% of the contribution. For all tax years beginning on or after January 1, 2025, this bill increases the credit to 70% of the contribution, and provides that a taxpayer will not be allowed to claim a credit in excess of \$50,000 in any tax year.

Additionally, the current maximum amount of tax credits that can be authorized for contributions made to qualified agencies is not to exceed \$1.5 million. For all fiscal years beginning on or after July 1, 2025, this bill increases the maximum to \$2.5 million.

Currently, if a taxpayer is denied a tax credit because of a lack of available funds, and that denial results in a balance owed to the State, the taxpayer has 60 days from the notice of denial to make payment arrangements. If the balance is not paid within 60 days from the notice, the remaining balance will be due and payable in the same manner as personal income tax.

This bill states that in the event of a full or partial denial of a tax credit because the cumulative maximum amount of credits has already been redeemed, and that denial results in an income tax balance owed to the State, the taxpayer will not be held liable for any additional tax, penalty, or interest on that income tax balance due, provided that payment arrangements are made within 60 days from the issuance of the notice of the credit denial.

The bill repeals the language stating that if the balance is not paid within 60 days from the notice, the remaining balance will be treated as personal income tax.

Finally, this bill reauthorizes and extends the expiration of the tax credit to December 31, 2031.

This provision is the same as a provision in HB 1292.

Current law authorizes a tax credit in the amount of 50% of contributions made to certain youth programs. This bill increases such tax credit to 70% of the amount of such contributions made.

This provision is the same as a provision in HCS HB 235 and TAFP CCS SS HCS HBs 737 & 486.

The bill defines "act of school violence" or "violent behavior" to have the same meaning as bullying.

The bill requires any school bullying policy to include a statement that a student's engaging in self-defense must be considered by the school district or charter school administration when determining any disciplinary action for a student who was responding to an act of school violence or violent behavior committed against the student. The bill requires charter schools to adopt and school districts to update current school bullying policies.

Currently, employees who witness an incident of bullying must report the incident within two days. This bill lowers the reporting requirement to one day and requires that all reported incidents be submitted in writing. Results of investigations must include a description of any interventions, initiatives, techniques, or discipline provided to all students involved and can be on a standardized form developed by the district.

The policy is required to outline a procedure for responding to an investigation that finds an act of bullying has occurred. The procedure must include notifying the parents and guardians of the bullying student and of the bullied student and a referral to law enforcement or to the Children's Division, for a student that is under 11 years old, if the investigation finds that the bullying was second degree harassment. Additionally, students committing acts of bullying are included in educational trainings and prevention initiatives.

The bill requires the policy to outline annual mandatory training for any district employee and volunteer that has contact with students; training on appropriate interventions and associated liability for action or inaction must be included in the training.

This bill requires the school administration to report monthly to the school board all acts of bullying, discipline for bullying, and all other disciplinary referrals. The school board must review the monthly report in a closed meeting and address concerns related to reported incidents within 30 days.

The bill provides immunity from liability for any school district employee and volunteer who intervenes in an incident involving

bullying, school violence, violent behavior, or criminal actions against any student that is a victim of bullying; the bill specifies that the employee or volunteer must follow the proper procedure and act in good faith to intervene under the defense of justification provided under Chapter 563.

The bill provides protection from civil liability for any school district or charter school for disciplinary actions if the procedures were properly followed and if a suit is brought the school can recoup attorney's fees if they prevail.

This bill requires that, for reporting requirements for mandated reporters under Section 210.115, bullying, incidents of school violence, and crime are considered abuse and required to be reported, with protections provided for reporting compliance.

No charter school will expel or transfer a student to a school district solely due to reports of bullying made against such student.

This provision is the same as a provision in HCS HBs 408, 306 & 854.

Under this bill, provisions in service provider contracts with the Children's Division in which the State is indemnified, held harmless, or insured for damages, claims, losses, or expenses arising from any injury caused by or resulting from the State's negligence, in whole or in part, must be void as against public policy and unenforceable.

This provision is the same as a provision in TAFP CCS SS HCS HBs 737 & 486.

This bill requires the Department of Social Services to establish a program to provide a comprehensive system of service delivery, education, and residential care for youth with severe behavioral challenges. To be eligible for the program, a youth must be under 21 years of age, in the custody of the Department of Social Services, and a team in the Department must have made a determination that the needs of the youth cannot be met with existing programs.

The Department will have the authority to contract with qualified services providers to provide services to the youth under this bill. Such service providers will be certified, licensed, or accredited in their respective fields of service, based in Missouri, and entities with proven experience in the areas for which they must provide services.

A qualified service provider providing services under this bill will have immunity as specified in the bill.

The Department must be authorized to enter into memoranda of understanding with any facility or campus under state ownership that is appropriate for the program and youth being served.

This provision is the same as a provision in TAFP HB 737.

Under this bill, when a case worker for Children's Division is investigating an instance of child abuse visits a home where an alleged victim of child abuse or a witness to child abuse is located, the case worker must identify himself or herself and his or her role in the investigation and must inform the child's parent or guardian that neither the child nor the parent or guardian is required to speak with the case worker, allow the case worker to enter the home, or otherwise provide the case worker with access to the child, without a warrant or court order, as well as inform the parent or guardian that the parent or guardian has the right to contact an attorney.

This provision is the same as a provision in TAFP CCS SS HCS HBs 737 & 486.

Beginning January 1, 2028, and subject to a specific appropriation for this purpose, unless operating under a pilot project established by the Missouri Supreme Court, a judge must appoint a child's counsel instead of a guardian ad litem (GAL) for children in certain proceedings who are at least 14 years but less than 18 years of age.

This bill creates the "Child and Family Legal Representation Coordinating Commission" within the judicial branch, with nine members appointed by the Chief Justice of the Supreme Court with duties, as described in the bill, including making recommendations to the Missouri Supreme Court concerning the establishment or modification of minimum training requirements and practice standards for attorneys serving as guardians ad litem, children's counsel, or parent's counsel. The Commission can also develop, coordinate, and evaluate pilot projects relating to guardians ad litem, children's counsel, or parents' counsel and outcomes relating to the various models of representation, as well as implementation of the children's counsel appointment provisions of this bill.

This bill creates the "Child and Family Legal Representation Fund" in the State Treasury, to be distributed by the Coordinating Commission to the judicial circuits for the purpose of improving or providing legal representation for children or families, including

the appointment of guardians ad litem, children's counsel, or parents' counsel. Under this bill, a circuit can participate in a pilot project established by the Missouri Supreme Court relating to guardians ad litem, children's counsel, or parents' counsel, in which case a judge can appoint a child's counsel instead of a guardian ad litem. This provision will expire on January 1, 2028.

These provisions are the same as provisions in TAFP CCS SS HCS HBs 737 & 486.

This bill prohibits the use of instruments of restraint on a child during a juvenile court proceeding and it requires the instruments to be removed prior to the child's appearance before the court, unless the court finds that certain exceptions, specified in the bill, apply. If the juvenile officer believes there is an immediate safety or flight risk, the juvenile officer must advise the child's attorney and make, prior to the commencement of the proceeding, a written request for the child to remain restrained during the proceeding. The child's attorney will have an opportunity to be heard and, if restraints are ordered, the court will make findings of fact in support of the order.

This provision is the same as a provision in HB 782.

Currently, no marriage license will be issued in Missouri for individuals under 16 years of age or issued when one party to the marriage is under 18 years of age and the other party over 21 years of age. Additionally, no marriage license will be issued if any party to the marriage is under 18 years of age without parental consent. This bill repeals those provisions prohibits a marriage license from being issued in Missouri for individuals under 18 years of age.

These provisions are the same as provisions in TAFP CCS SS HCS HBs 737 & 486.

Currently, a statement made by a child under the age of 14 that would otherwise be inadmissible in court, including a visual and an aural recording of a verbal or nonverbal statement of that child, is admissible in court in matters relating to offenses under Chapter 565, 566, 568, or 573. This bill changes the age to children under 18. The bill also adds that a visual and an aural recording of a verbal or nonverbal statement of a "vulnerable person", as defined in the bill, is also admissible when relating to an offense under Chapter 565, 566, 568, or 573.

These provisions are the same as provisions in Perfected HCS HB 615.

This bill modifies the offenses included in the definition of "childhood sexual abuse" for civil actions to recover damages from injury or illness caused by childhood sexual abuse. The bill must apply to any action arising on or after August 28, 2025. This bill also provides that a nondisclosure agreement by any party to a childhood sexual abuse action must not be judicially enforceable in a dispute involving childhood sexual abuse allegations or claims and will be void.

These provisions are the same as provisions in TAFP CCS SS HCS HBs 737 & 486.

This bill also modifies the offense of enticement of a child by increasing the age of the victim from less than 15 years old to less than 17 years old. The bill modifies the penalty provisions for the offense of patronizing prostitution. Currently, the penalty distinctions are for victims older than 14 years of age and 14 or younger. This bill increases the age from 14 to 15 years old and modifies the offense of patronizing prostitution if the individual being patronized is 15 years of age or younger from a class D felony to a class B felony.

These provisions are the same as provisions in Perfected HCS HB 615.

Currently, a person commits the offense of endangering the welfare of a child in the first degree if he or she knowingly engages in sexual conduct with a person under the age of 17 years over whom the person is a parent, guardian, or otherwise charged with the care and custody of the child. This bill changes the age of the child from under seventeen to under 18.

This provision is the same as a provision in TAFP SS#2 SCS HCS#2 HB 495.

This bill provides that the offense of hazing will be known as "Danny's Law" and provides that a person must be found guilty of the offense of hazing if a person knowingly, actively, and not under duress, participates in, solicits another person to participate in, or causes or plans a willful act that endangers a student or certain members of organizations under the sanction of a public or private college or university.

This bill provides that a person will not be guilty of the offense of hazing if the person establishes that he or she:

- (1) Was present at the event where hazing occurred and a person was in need of immediate medical assistance;

(2) Was the first person to call 911 or campus security to report the need for medical attention;

(3) Provided the relevant information to the 911 operator or campus security; and

(4) Remained at the scene until medical assistance arrived and cooperated with such assistance.

Additionally, this bill provides that a person is immune from prosecution if the person can establish he or she rendered aid to the hazing victim before assistance arrived.

These provisions are the same as provisions in HCS HB 234.

This bill provides that a person who pled guilty to or was found guilty of certain sexual offenses, as specified in the bill, will be required to pay \$10,000 in restitution per identified victim, or \$2,500 in restitution if the person pled guilty to or was found guilty of patronizing prostitution, and \$2,500 for each county in which the offense or offenses occurred, payable to the State to be deposited into the newly established "Human Trafficking and Sexual Exploitation Fund". Upon receipt of money from the Fund, a county must allocate disbursement of the funds according to the requirements in the bill.

This bill establishes the "Human Trafficking and Sexual Exploitation Fund". The moneys in the Fund will be distributed to the county where the human trafficking offense or offenses occurred. The county will allocate \$10,000, or \$2,500 if the offense for which the restitution was assessed was patronizing prostitution, toward local rehabilitation of human trafficking victims and \$2,500 toward local education programs for convicted human trafficking offenders and to increase the number of law enforcement officers to enforce human trafficking laws.

These provisions are the same as provisions in Perfected HCS HB 615.

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 there needs to be more attention given to the foster care system because there are foster parents who are great parents and have great families and they struggle to obtain permanency. There are also certain kids who have no place to go, and we need to have facilities for them, residential

facilities, not hospitals or hotels. The bill contains a provision related to nondisclosure agreements involving children, and this is necessary because requiring children to sign these can be detrimental to their futures. The foster care system is a very expensive endeavor for the State, so getting kids to permanency should be a top priority. Currently, kids are covered under multiple agencies across the State and that is a problem when no one has ownership over a case. This puts it in the hands of Children's Division. It emphasizes using State facilities to house these children because the facilities are being wasted and these kids have nowhere to go. The bill creates some tools for the department to use when the kids have no placement, and it gives a degree of qualified immunity to organizations that are able to step up and provide some of these services. It is not uncommon for children not to know who their guardian ad litem is, and it is important for children to be heard. It creates more and better training and better standards for these children's rights to be protected and their voices heard. A lot of times the kids are not even present in court. Studies show that when families have a strong representation they usually reach reunification much faster.

Testifying in person for the bill were Senator Fitzwater; Familyforward; BJC Healthcare; Brighli; CoxHealth; Children's Permanency Partnership; Jamie Skinner; Enough Abuse; Missouri Appleseed; Missouri Coalition For Children; and William Atherton, Coyote Hill.

OPPONENTS: Those who oppose the bill say that we have a crisis in Missouri with our youth and we need to look at the big picture. People have lost sight of the ramifications of what passing this will do. There appears to be a provision replacing GALs with attorneys, but GALs are very important. Law enforcement should not enter into custody agreements by acting as a referee or a judge. Law enforcement is there to enforce the laws and maintain peace between parties. Children need to be held accountable for offenses they commit.

Testifying in person against the bill were Lara Underwood; and Arnie Dienoff.

OTHERS: Others testifying on the bill say the concerns around the loss of funds were already addressed and if they have not, they will be and the fiscal note will be updated.

Testifying in person on the bill was Patrick Luebbering, Department of Social Services.

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.