SS#3 SB 888 -- THE CRIMINAL JUSTICE SYSTEM

SPONSOR: Schroer

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Corrections and Public Institutions by a vote of 9 to 7. Voted "Do Pass" by the Standing Committee on Rules-Administrative by a vote of 7 to 1.

FINGERPRINTING OF JUVENILES (Section 43.503)

Currently, an arresting officer is required to take fingerprints to be sent to the central repository if an individual under 17 years of age, who is not currently certified as an adult is taken into custody for an offense that would be a felony if committed by an adult.

This bill requires that an officer take fingerprints from an individual under 18 years of age for certain felony offenses. This bill also repeals a provision that requires fingerprint cards to be made in a manner that does not reveal the juvenile's name to the central repository. Records of a juvenile that has been fingerprinted must be closed records.

JUVENILE DETENTION (Section 211.021, 211.331, 211.341, 211.342, & 211.436)

Currently, circuit judges of a judicial circuit can establish a place of juvenile detention for the counties within the circuit court. This bill provides that the governing body of a county may provide for juvenile detention in coordination with all other counties within the same circuit court or with all counties of the same circuit court and all counties of an adjoining circuit court. The county governing body must approve an ordinance, order, or resolution authorizing a place of detention, must approve an agreement, as specified in this bill between the counties, and must notify the presiding circuit judge.

The operation and support of a juvenile detention facility authorized pursuant to this bill must be regulated in accordance with the rules and standards of the Supreme Court of Missouri under the governance of the circuit judge. If two or more counties of adjoining judicial circuits have authorized a place of detention, the circuit judges must jointly govern the affairs of the place of detention. Furthermore, the counties authorizing

a place of detention pursuant to this Section may impose, by order, a sales tax up to 1% on all retail sales.

This bill provides that a child must not be placed in leg restraints unless they are charged with a class A or class B felony or they are determined to be an immediate safety or flight risk by the official overseeing their custody.

CERTIFICATION OF A JUVENILE AS AN ADULT (Section 211.071)

Currently, if a petition or motion to modify alleges that a child between 14 and 18 years of age has committed a felony offense, the court may, upon its own motion or motion by the juvenile officer, the child, or the child's custodian, order a hearing, and exercise its discretion to dismiss the motion or petition to modify and order the child to the court of general jurisdiction.

This bill modifies the provision so that it applies to offenses that are a class A or B felony, a felony sexual offense, or three felony offenses arising from distinct acts committed within 180 days of each other. Under this provision, the office of the prosecuting or circuit attorney must also have the authority to make a motion and present evidence on their motion.

The bill provides that when a juvenile officer forwards to the prosecuting attorney a class A or B felony that is not certified, the prosecuting attorney must notify the juvenile officer within 14 days of the decision to certify the case.

Currently, the juvenile officer may consult with the prosecuting attorney concerning any offense for which the child could be certified as an adult.

This bill requires the juvenile officer to consult with the prosecuting or circuit attorney. Additionally, the prosecuting or circuit attorney must be provided with a copy of the completed Missouri Juvenile Detention Assessment Form (JDTA) that was used in determining detention. Use of the JDTA to determine that a child may be held must be used as a guideline and must not be mandatory.

Under this bill, the juvenile officer must consider all legally sufficient charges submitted by law enforcement when utilizing the JDTA form and must provide a copy of the form to the law enforcement agency once a determination has been made. Juvenile officers must share criminal history data with the Missouri

Uniform Law Enforcement System to create a juvenile criminal history database that must be accessible by criminal justice and law enforcement agencies. Such records maintained by the central repository must be closed.

JUVENILE COURT PROCEEDINGS (Section 211.319)

This bill provides that all juvenile court proceedings for a criminal offense must not be open to the general public.

LONG-TERM PROGRAM TREATMENT (Section 217.362 & 559.115)

The bill repeals provisions that do not consider an offender's first incarceration in a Department of Corrections (DOC) long-term substance abuse program or 120-day program as a previous prison commitment for the purpose of determining a minimum prison term.

PRISON TERMS (Section 217.690, 217.760, 557.011, 557.021, 558.011, 558.016, 558.019, 558.026, 558.046, 566.125)

Currently, any felony offense that is defined outside of this code without a penalty provision is a class E felony.

This bill adds that any such offense must also be subject to the imprisonment terms of Chapter 558.

Currently, when a person is found guilty of a felony and sentenced, there is a certain percentage range of the sentence that must be served prior to parole eligibility.

This bill repeals such provisions and provides that offenders must serve the following percentage of the imposed term prior to eligibility for parole based upon the felony classification as follows:

Class A: 70%

Class B: 50%

Class C:

(1) 40% for an offense that requires registration as a sex offender;

(2) 30% for a first offense that does not require registration as a sex offender;

(3) 35% for a second such offense; and

(4) 50% for a third or subsequent such offense

Class D:

(1) 25% for an offense that requires registration as a sex offender;

(2) 20% for a first offense;

(3) 25% for a second offense; and

(4) 50% for a third or subsequent offense

Class E:

(1) 25% for an offense that requires registration as a sex offender;

(2) 15% for a first offense;

(3) 20% for a second offense; and

(4) 50% for a third or subsequent offense

This bill also removes references to the minimum percentage ranges and replaces them with references to the eligibility percentages established in these provisions. Where a person is sentenced to concurrent sentences, such person must serve the eligibility percentage of the longest sentence prior to parole eligibility. A person that is sentenced to consecutive sentences must serve the minimum percentage for each felony prior to parole eligibility.

Currently, there are certain offenses that contain higher parole eligibility percentages. These provisions allow these higher percentages to be unaffected by the new eligibility percentages. Where a person is sentenced to the term of imprisonment for a higher class than the one for which they were found guilty due to their status as a prior or persistent offender, they must serve the parole eligibility percentage of the higher class.

Any person found guilty of a dangerous felony must be required to serve 85% of the given sentence prior to parole eligibility. This bill provides that a sentence of life imprisonment must be

calculated to be 30 years. Any sentence that is over 75 years must be calculated to be 75 years.

Currently, a court may sentence a person to an extended term of imprisonment if certain conditions are made. This bill requires that they court sentence a person to an extended term of imprisonment if certain conditions are met.

Sections 558.011, RSMo, and 558.019 have a delayed effective date of January 1, 2028.

DANGEROUS FELONIES (Section 556.061)

This bill modifies the definition of "dangerous felony" to include statutory rape in the first degree and statutory sodomy in the first degree. The requirement that the victim of statutory rape in the first degree or sodomy in the first degree be under 12 years of age for the offense to be a dangerous felony is removed. A person found guilty of a "dangerous felony" is required to serve 85% of their sentence prior to eligibility for parole. Additionally, the bill includes the following offenses in the definition of "dangerous felony":

(1) Abuse through forced labor;

(2) Trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor, or the attempt of such offense;

(3) Trafficking for the purposes of sexual exploitation, or the attempt of such offense, when the offense was effected by force, abduction, or coercion;

(4) Sexual trafficking of a child in the first degree;

(5) Sexual trafficking of a child in the second degree;

(6) Third offense of failing to register as a sex offender; and

(7) Endangering the welfare of a child in the first degree.

CONDITIONAL RELEASE (558.011)

This bill provides that conditional release terms must not apply to any person that commits certain class A or B felony offenses after January 1, 2028. Under this bill, conditional release

provisions are removed from certain sexual offenses and offenses involving children.

JAIL TIME CREDIT (Section 558.031)

This bill modifies jail time credit. This bill requires the form developed by the Office of the State Courts Administrator for offenders committed to the DOC to include a sentencing calculation, including jail time credit supplemented by a certificate of a sheriff or custodial officer. The bill further requires the court, when pronouncing a sentence, executing a suspended sentence, or suspending the imposition of a sentence, to record as part of the judgment, the number of days before the pronouncement of the sentence that the person was in custody related to the offense. Time in custody related to an offense means the time in which the offense was charged in a criminal proceeding, an arrest warrant was issued and served upon the person, and includes time served on house arrest. Time when a person was out on bond or otherwise released is not to be included.

Under this bill, the court can take judicial notice of any time the defendant has served in custody by comparing arrest warrant service dates with files of release. Any defendant that was held in a juvenile detention facility prior to adjudication to stand trial as an adult may make a motion to receive credit for time served in such facility.

Credit for time spent in prison, jail, or custody after an offense occurs but before commencement of a sentence is currently mandatory and the total amount of credit awarded must not exceed the number of days spent in prison, jail, or custody. The bill removes these two provisions.

Under this bill, a person may challenge any jail time credit awarded or not awarded by filing a petition for a writ of habeas corpus.

Section 558.031 has a delayed effective date of January 1, 2028.

CRIMINAL OFFENSES (Section 566.030, 566.032, 566.060, 566.103, 566.203, 566.209, 566.210, 566.211, 568.045, 568.060 & 589.425)

Currently, the offense of rape in the first degree has a penalty of five years unless certain factors are present. This bill

modifies this provision by classifying it as a class A felony and increasing the penalty to 10 years but not more than 30 years.

Currently, if rape in the first degree is an aggravated sexual offense the authorized term of imprisonment is life imprisonment or a term of years not less than 15 years. This bill removes "a term of years not less than fifteen years" and adds "life imprisonment without eligibility for probation or parole.

Currently, a person that was found guilty of rape in the first degree when the child was less than 12 years old, was not eligible for probation or parole until the offender has served at lease 30 years of their sentence or has reached the age of 75 years and served at least 15 years of their sentence. This bill repeals this provision.

The authorized term of imprisonment for statutory rape in the first degree, currently, is life imprisonment or a term of years not less than five years. This bill replaces five years with 10 years. Currently, if statutory rape is an aggravated sexual offense the penalty is life imprisonment or a term of years not less than ten years. This bill increases the ten years to 15 years.

Currently, a person that is found guilty of sodomy in the first degree when the child was less than 12 years old, must be sentenced to life imprisonment and is not eligible for probation or parole until the offender has served at least 30 years of their sentence or has reached the age of 75 years and served at least 15 years of their sentence. The provision relating to release is repealed. Under this bill, the penalty for sodomy in the first degree when the child was less than 12 years old is life imprisonment with or without parole. When a person commits the offense of sodomy in the first degree and the victim is less than 12 years of age, current law states that "life imprisonment" must mean imprisonment for the duration of the offender's life. This provision is repealed.

Currently, the offense of promoting online sexual solicitation is an unspecified felony punishable by a fine. This bill provides that the offense must be a class E felony, and is punishable by imprisonment, fine, or both.

Currently, the offense of abusing an individual through forced labor carries a penalty of five years to life imprisonment if death results from the offense or if the offense includes kidnapping or an attempt to kidnap, sexual abuse punishable by a

class B felony, or an attempt to kill. This bill increases the penalty to 10 years to life imprisonment.

This bill adds "intoxicating or inhibiting substances" to the list of means a person can use to commit the offense of trafficking for the purposes of sexual exploitation.

Currently, the offense of sexual trafficking of a child in the second degree if effected by force, abduction, or coercion, carries a penalty of life imprisonment without eligibility for parole until the defendant has served at least 25 years. This bill modifies that provision by requiring that the defendant serve at least 85% of a life sentence.

Currently, a person commits the offense of endangering the welfare of a child if the person commits certain acts to a child that is less than 17 years old. This bill provides that a person commits the offense of endangering the welfare of a child if they commit certain acts to a child that is less than 18 years old.

Currently, the offense of abuse or neglect of a child is a class D felony without eligibility for probation, parole, or conditional release after serving no less than a year of their sentence. This bill repeals the provision allowing for release from imprisonment after serving one year.

This bill classifies failing to register a sex offender as a third offense as a class A felony. Currently, a person convicted of failing to register a sex offender as a third offense is eligible for conditional release of parole after serving at least two years of imprisonment. This bill repeals that provision.

This bill contains a severance clause.

PROPONENTS: Supporters say that this is a bipartisan package of legislative efforts providing consistency in juvenile justice and clarity to both victims and offenders. The bill zeros in on the most heinous and violent offenders while letting juvenile offenders get the help they need. This bill protects and seals fingerprint records for minors and allows collaboration between offices for serious crimes. The most heinous and repeat offenders will not be allowed conditional release. Clarity in sentencing is important. The ability to tell victims how long their attacker or perpetrator will be behind bars is vitally important. We often see victims being told their attacker is out two to three years into a 15-year sentence, and it makes them

feel victimized all over again. Transparency is beneficial to every stakeholder in the process.

Testifying in person for the bill were Senator Schroer; Locke Thompson, Cole County Prosecuting Attorney; Shawn Rhoads; Trevor Foley, Department of Corrections; and Cliffton Davis, Missouri Justice Coalition.

OPPONENTS: Those who oppose the bill say that by placing endangering the welfare of a child within the definition of "dangerous felonies", the State is being given a concerning tool that could be used to target good parents for vaccination or healthcare decisions related to their children. The juvenile-related provisions of the bill are problematic because kids should not be thrown into a system made for punishment instead of improvement. Restorative justice, accountability, and rehabilitation are more important than punishment. Truth in sentencing is not about truth, but increasing punishments. Last year, a bill was passed that ended the shackling of children. This bill essentially undoes that change and it's unclear what constitutes a closed record related to fingerprint information of juveniles. The bill moves Missouri backward, where currently we are a leader. Disparities will worsen as the Missouri Model weakens. Longer sentences don't aid recidivism or reduce crime. Longer sentences also mean more beds, more staff, and eventually more prisons.

Testifying in person against the bill were Lisa Pannett; Sheena Rogers, Missouri Justice Coalition; and Missouri State Public Defenders Office.

OTHERS: Others testifying on the bill say portions of the bill are not currently functional and require editing. The bill directs 17 year olds for placement in an adult jail, but this is inconsistent with other current sections of law. The bill also does not specify a time requirement to get the motion to certify filed with the Juvenile Court. However, SCR 127.08 requires the Juvenile Court to hold the adjudication hearing at the earliest possible date, a lack of a time requirement for the prosecuting attorney will lead to increased detention costs and an exacerbated lack of bed space, and certification hearings do not determine guilt but instead whether the juvenile is a proper subject to be dealt with under the juvenile code. Proper administration of the juvenile act does not allow the functions of a juvenile officer and a prosecuting attorney to be performed by a person holding both offices, as the training and purpose of these offices are inherently conflicting.

Testifying in person on the bill was Phillip R. Warren, Office of the Juvenile Officer.

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.