SS#3 SB 888 -- THE CRIMINAL JUSTICE SYSTEM

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 an arresting officer to take fingerprints to be sent to the central repository if an individual under 18 years of age, who is not currently certified as an adult, is taken into custody for an offense that, if committed by an adult, would constitute one of the following:

(1) A class A or B felony;

(2) A felony sexual offense; or

(3) Two felony offenses arising from distinct acts committed within one year of each other.

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 who has been fingerprinted must be closed records.

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

The bill defines "juvenile detention facility" and specifies that such facilities are places for the temporary care of a juvenile in certain judicial proceedings, but do not include a jail or other adult detention facility unless the juvenile is 17 years of age or older or unless the juvenile detention facility is operated, administered, and staffed separately and independently of a jail or other adult detention facility and used exclusively for the lawful custody and treatment of juveniles. A juvenile detention facility can be located in the same building or on the same grounds as a jail or other adult detention facility if there is specified separation between the facilities, programs, and staff for adults and juveniles. The facility can be owned or operated by public or private agencies.

Currently, counties of the third and fourth classes within the same judicial circuit must, upon the recommendation of the circuit judge, establish a place of juvenile detention for the counties within the circuit court. This bill provides that alternatively the governing bodies of a counties can decide to 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 between the counties, as specified in this bill, 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 can impose, by order, a sales tax up to 1% on all retail sales after receiving voter approval, and the proceeds of the sales tax must be used for providing a juvenile detention facility while the tax is in effect, as specified in the bill.

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. (This provision was subsequently repealed in CCS SS SCS HCS HBs 2637 & 3155 and will therefore not go into effect.)

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 can, upon its own motion or motion by the juvenile officer, the child, or the child's custodian, order a hearing, and exercise its discretion and order the child to the court of general jurisdiction.

This bill modifies the provision to instead apply 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 will also have the authority to make such a motion and present evidence at any hearing held 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 is authorized but not required to 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 police reports, reports of the juvenile or deputy juvenile officer, statements of witnesses, a copy of the completed Missouri Juvenile Detention Assessment Form (JDTA) that was used in determining detention, and all other records or reports relating to the offense alleged to have been committed by the child. Use of the JDTA to determine that a child may be held must be used as a guideline and will not be mandatory.

Under this bill, the juvenile officer must consider 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. The term "legally sufficient" is defined in the bill.

The bill requires law enforcement agencies who detain juveniles for offenses where fingerprinting is required to collect fingerprints and forward detention information to the central repository. Juvenile officers and the courts of jurisdiction over juvenile offenders must share adjudication, delinquency, and custody information with the Missouri Uniform Law Enforcement System (MULES) and such information must be accessible by criminal justice agencies. Such records maintained by the central repository must be closed.

JUVENILE COURT PROCEEDINGS (Section 211.319)

This bill provides that juvenile court proceedings for criminal offenses will not be open to the general public.

PRISON TERMS (Section 217.362, 217.690, 217.760, 557.011, 557.021, 558.011, 558.016, 558.019, 558.026, 558.046, 559.115, 566.125, and Section B)

The bill repeals a provision that does 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.

Currently, any felony offense that is defined outside of the 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:

(1) Class A: 70%

(2) Class B: 50%

(3) Class C:

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

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

(c) 35% for a second offense that does not require registration as a sex offender; and

(d) 50% for a third offense that does not require registration as a sex offender

(4) Class D:

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

(b) 20% for a first offense that does not require registration as a sex offender;

(c) 25% for a second offense that does not require registration as a sex offender; and

(d) 50% for a third or subsequent offense that does not require registration as a sex offender

(5) Class E:

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

(b) 15% for a first offense that does not require registration as a sex offender;

(c) 20% for a second offense that does not require registration as a sex offender; and

(d) 50% for a third offense that does not require registration as a sex offender;

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 than those listed above. These higher percentages are unaffected by the new eligibility percentages, as are offenses where a suspended imposition of sentence is imposed or where the matter is referred to an adult treatment court. 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.

This bill provides that conditional release terms must not apply to any person that commits a class A or B felony offense or an offense under Chapters 566, 568, or 573 requiring registration as a sex offender after January 1, 2028.

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 when a defendant is a persistent or dangerous offender; a defendant is sentenced under a statute with an enhancement based on a prior finding of guilt or finding of prior criminal conduct; or a more specific sentencing enhancement provision applies that is based on a prior finding of guilt or finding of prior criminal conduct. This bill requires the imposition of an extended sentence in such circumstances.

Sections 558.011 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". 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.

JAIL TIME CREDIT (Section 558.031 and Section B)

This bill modifies jail time credit. This bill 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 being sentenced 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, and the arrest warrant was issued and served upon the person, and includes time served on house arrest. Time when a person was out on bond, an arrest warrant was recalled, or a person was 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 can make a motion to receive credit for time served in such facility.

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

These provisions have 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, and Section 1)

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 not less than 15 years and adds without eligibility for probation or parole to life imprisonment.

Currently, a person that was found guilty of rape in the first degree when the child was less than 12 years old 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. This bill removes the eligibility for probation or parole.

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 10 years. This bill replaces the 10 years with 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 bill removes the eligibility for probation or parole.

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 against 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 against 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 until the defendant has served at least one year of their sentence. The bill removes the provision specifying probation, parole, or conditional release requires the defendant to serve one year of such sentence.

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.

SEVERANCE

This bill contains a severance clause.