

HS HCS SS SCS SB 5 -- CRIME

This bill makes a variety of changes in the laws relating to crime.

SENTENCING PROVISIONS

In its provisions regarding criminal sentencing, the bill:

- (1) Increases the penalty for endangering the welfare of a child in the first degree from a class D felony to a class C felony;
- (2) Increases the penalty for stealing less than \$500 worth of materials used to manufacture methamphetamine from a class D felony to a class C felony;
- (3) Increases the penalty for stealing anhydrous ammonia or liquid nitrogen (materials used to manufacture methamphetamine) from a class C felony to a class B felony;
- (4) Decreases the penalty for a second stealing-related offense within a 10-year period from a class C felony to a class D felony;
- (5) Reduces the maximum sentence for persistent or dangerous offenders convicted of a class C or class D felony. For a class C felony, the maximum sentence is reduced from 20 years to 15 years, and for a class D felony the maximum is reduced from 10 years to seven years;
- (6) Decreases the maximum sentence for a class D felony from five years to four years; and
- (7) Amends the definition of "dangerous felony" to include assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, statutory rape and statutory sodomy when the victim is under the age of 12, and abuse of a child when the abuse results in the death of the child.

ALTERNATIVE SENTENCING

In its provisions relating to alternative sentencing, the bill:

- (1) Allows the court to recommend that an offender be placed into a 120-day substance abuse treatment program conducted by the Department of Corrections. The department will determine whether the offender meets all eligibility requirements. Once the department determines an offender has successfully completed the treatment program, the offender will be released on probation,

unless the court determines that a probationary release would be an abuse of discretion. The court, after a hearing, may order the execution of the offender's entire sentence. If the department's treatment program is full, the court may place the offender in a private treatment program, paid for by the offender. The court may grant probation to an offender convicted of a nonviolent class C or class D felony, while he or she is awaiting placement in a treatment program;

(2) Allows an offender who has no prior prison commitments and who is convicted of a nonviolent class C or class D felony to petition the court for probation, parole, or other alternative sentencing after serving 120 days of his or her sentence. A hearing will be conducted only if the court deems it necessary. The department must submit a report to the sentencing court with its recommendations. If the report is favorable and recommends alternative sentencing, the court must follow the recommendation, unless the court rules that doing so would not be appropriate in that case;

(3) Allows an offender's first incarceration to not count as a prior conviction (in determining sentencing for a subsequent conviction) when the offender successfully completes substance abuse treatment and is granted probation;

(4) Grants the Board of Probation and Parole the authority to order the detention of an offender for up to 48 hours for violation of probation and parole, when the offender's probation or parole officer determines that the offender has violated a condition of probation or parole. Under current law, this detention requires a court order;

(5) Requires the Sentencing Advisory Commission to examine all alternative sentencing programs and review how Missouri's sentencing practices compare with those of other states; and

(6) Removes the requirement that the Board of Probation and Parole provide probation services to the court for class A misdemeanor convictions for stealing.

CRIMINAL FORFEITURES

The bill requires each law enforcement agency receiving proceeds via the federal criminal forfeiture system to send a copy of its annual independent audit to the Department of Public Safety and prohibits the department from issuing funds to any law enforcement agency failing to comply.

TRIALS

The bill divides all criminal cases submitted to a jury into two stages. The jury must first determine whether the defendant is guilty or not guilty and then must decide upon a sentence after hearing evidence supporting or mitigating punishment.

The bill grants crime victims the right to attend all criminal proceedings of their case, even though the victim may later be called to testify. Current law allows a judge to exclude witnesses in any criminal proceeding while another witness is testifying.

CIRCUIT JUDGESHIP

The bill adds a circuit court judgeship to the 13th Circuit (Boone and Callaway counties) to be elected in 2006.

POLICE OFFICERS

The bill clarifies that police officers may carry concealed weapons while off-duty and outside of their jurisdiction.

The bill also clarifies that the Kansas City Board of Police Commissioners has the sole authority to determine conditions of employment for the city's police officers.

SEX OFFENDER REGISTRATION

Current law requires the county sheriff to forward the county's sex offender registration list to the law enforcement agencies of any city, town, or village in the county. The bill requires the list to be forwarded to the law enforcement agency for any college or university located within the county.

The bill also requires sex offenders to include in their registration information whether they are enrolled in a college and to update their registration information within seven days of changing their enrollment or employment with a college within the state.

CRIMINAL COURT SURCHARGES

The bill decreases the county's funding of the prosecutors retirement fund by 50% and replaces that funding with a surcharge of \$4 on all criminal cases.

The bill allows the governing body of any county or city to adopt a \$2 surcharge on all criminal cases for the funding of an Inmate Security Fund. The fund is to be used to develop a biometric identification system that would identify and track inmates in the local jails.

DRUG TAMPERING

The bill creates the crime of tampering with a prescription drug, a class A felony. The crime is committed when a pharmacist sells an altered or diluted prescription drug with the intention of misleading the purchaser.

ASSAULT ON EMERGENCY PERSONNEL

The bill changes the crime of assault on a law enforcement officer to assault on a law enforcement officer or emergency personnel and defines the term "emergency personnel."

The bill contains an emergency clause.