

SS SCS SB 699 -- CRIME

SPONSOR: Goodman (Fuhr)

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 15 to 0.

This substitute establishes the Justice Reinvestment Act, the Sentencing and Corrections Oversight Commission, and the Joint Committee on the Missouri Criminal Code and changes the laws regarding criminal offenders under the supervision of the Department of Corrections.

SENTENCING AND CORRECTIONS OVERSIGHT COMMISSION

The 13-member Sentencing and Corrections Oversight Commission is established to monitor and assist in the implementation of these provisions, determine ways to reinvest any cost savings realized from the passage of these provisions to pay for continued implementation and other evidence-based practices to reduce recidivism, and examine the issue of restitution for crime victims.

The members of the commission will include a circuit court judge appointed by the Chief Justice of the Supreme Court; three members to be appointed by the Governor with the advice and consent of the Senate, one must be a victim's advocate, one must be a representative from the Missouri Sheriffs' Association, and one must be representative of the Missouri Association of Counties; and the following ex officio, voting members: the chair of the Senate Judiciary committee, who will serve as co-chair; the chair of the House Appropriations-Public Safety and Corrections committee, who will serve as co-chair; the director of the Missouri State Public Defender System, or his or her designee who is a practicing public defender; the Executive Director of the Missouri Office of Prosecution Services, or his or her designee who is a practicing prosecutor; the Director of the Department of Corrections, or his or her designee; the Chairman of the Board of Probation and Parole within the Department of Corrections, or his or her designee; and the Chief Justice of the Missouri Supreme Court, or his or her designee. The members will serve in staggered four-year terms.

The commission must meet at least twice a year and the first meeting must occur by February 28, 2013. The commission must issue a report on December 31, 2013, and every year thereafter, to the Speaker of the House of Representatives, President Pro Tem of the Senate, Missouri Supreme Court Chief Justice, and the Governor detailing the effects of the implementation of these provisions. It may also recommend ways to reinvest any cost

savings into evidence-based practices to reduce recidivism and possible changes to sentencing and corrections policies and statutes.

The department must provide administrative support to the commission to carry out these duties. No member of the commission can receive any compensation, but those members who are not otherwise reimbursed by their agency will be reimbursed for travel and necessary expenses incurred in the performance of their duties.

These provisions expire August 28, 2018.

EARNED COMPLIANCE CREDITS

With the exception of an offender who is subject to lifetime supervision or is otherwise found ineligible by a court under these provisions, the Division of Probation and Parole within the Department of Corrections must award earned compliance credits to any offender who is on probation, parole, or conditional release for a class C or D felony, excluding the offenses of aggravated stalking, sexual assault, deviate sexual assault, second degree assault in specific instances, sexual misconduct involving a child, first degree endangering the welfare of a child in specific instances, incest, invasion of privacy, and abuse of a child, or a violation of a drug crime in Chapter 195, RSMo, is supervised by the board, and is in compliance with the conditions of supervision imposed by the sentencing court or board. However, the court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that an offender is not eligible if the underlying offense is involuntary manslaughter in the first or second degree, assault in the second degree except under Section 565.060.1(2), domestic assault in the second degree, assault of a law enforcement officer in the second degree, statutory rape or sodomy in the second degree, endangering the welfare of a child in the first degree in specific instances, or any felony weapon offense under Chapter 571. Earned compliance credits must reduce the term of probation, parole, or conditional release by 30 days for each full calendar month of compliance with all terms of supervision but may be suspended or rescinded if the offender violates the conditions of supervision. An offender deemed to be an absconder, as defined in the substitute, cannot earn credits.

Once the combination of time served in custody; on probation, parole, or conditional release; and earned compliance credits satisfy the total term of probation, parole, or conditional release, the board or sentencing court must order final discharge of the offender if the offender has completed at least two years of his or her probation or parole which may include specified

time served in custody.

At least twice a year, the division must calculate the number of months the offender has remaining on supervision, taking into consideration any earned credits, and notify the offender of the length of the remaining term. No less than 60 days before the date of final discharge, the division must notify the sentencing court, the board, and for probation cases the circuit or prosecuting attorney of the impending discharge. If none of these parties takes any action upon receiving this notice, the offender will be discharged under these provisions.

ADMINISTRATIVE JAIL SANCTIONS

The substitute allows, as an alternative to the revocation proceedings, a probation or parole officer to place an offender in the county jail for a short period of time when the officer believes the offender has violated a condition of probation or parole unless the court has otherwise required detention to be a condition of probation. The first period of detention cannot exceed 48 hours, but subsequent periods may exceed 48 hours. However, the total cannot exceed 360 hours in any year. The officer must present the offender with a report detailing the violation and advise the offender of the right to a hearing before the court or board prior to the period of detention.

The division must reimburse the county jail for the costs of detention at a rate to be determined by the department which must be at least \$30 per day per offender and subject to appropriation by the General Assembly. Prior to ordering the offender to detention, the officer must certify to the county jail that the division has sufficient funds to provide reimbursement. A jail may refuse to detain an offender if funds are not available or there is inadequate space in the facility.

Upon successful completion of the period of detention, the court or board cannot revoke the term of parole, probation, or conditional release or impose additional periods of detention for the same incident unless new or additional information is discovered that was unknown to the division when the period of detention was imposed and indicates that the offender was involved in the commission of a crime. If the offender fails to complete the period of detention or new or additional information is discovered that the incident involved a crime, he or she may be arrested.

JOINT COMMITTEE ON THE MISSOURI CRIMINAL CODE

The Joint Committee on the Missouri Criminal Code is established composed of 11 members, including three members of the Senate;

three members of the House of Representatives; a representative of the Attorney General, the state Public Defender system, victims of crime appointed by the Governor, the Governor; and a supreme court judge, or his or her designee, selected by the Missouri Supreme Court. The committee is to study and receive testimony on the state's criminal statutes in order to investigate how to harmonize, organize, and revise the criminal laws to ensure that they are up-to-date, consistent, and effective. The committee must submit a report to the General Assembly by December 31, 2012, containing any recommendations for statutory revisions to the criminal code and other statutes relating to the criminal justice system.

These provisions expire January 1, 2013.

MANDATORY PLACEMENT IN A 120-DAY PROGRAM

If a continuation, modification, enlargement, or extension of the probation period is not appropriate, the court must order certain offenders to be placed in one of the department's 120-day programs when the offender violated a condition of probation. An offender who is on probation for a class C or D felony or a drug offense in Chapter 195; who has not already been placed in a 120-day program for the same offense or during the same probation term; whose probation violation does not involve absconding or being arrested on suspicion of, being found guilty of, or pleading guilty to any crime; and who has not violated any conditions of probation involving the possession or use of weapons or a stay-away condition will be eligible for placement in one of these programs. However, the court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that an offender is not eligible if the underlying offense is involuntary manslaughter in the first or second degree, aggravated stalking, assault in the second degree, sexual assault, domestic assault in the second degree, assault of a law enforcement officer in the second degree, statutory rape or sodomy in the second degree, deviate sexual assault, sexual misconduct involving a child, incest, endangering the welfare of a child in the first degree in specific instances, abuse of a child, invasion of privacy, or any felony weapon offense under Chapter 571. Upon receiving the order from the court for placement, the department must conduct an assessment and place the offender in the appropriate 120-day program. Once the offender has successfully completed the program, the court must release the offender to continue to serve the term of probation without modifying, enlarging, or extending the term based on the same violation. Time served in the program must be credited as time served against the offender's sentence.

FISCAL NOTE: Estimated Net Income on General Revenue Fund of

\$168,657 in FY 2013, \$240,136 in FY 2014, and \$158,444 in FY 2015. No impact on Other State Funds in FY 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that the bill is similar to HB 1525 with some minor changes. Offenses were added regarding who would be ineligible for earned compliance credits. A provision was added to give the court criteria in determining when an offender should be ineligible. The establishment of the joint committee will allow for an examination of the state's criminal code.

Testifying for the bill were Senator Goodman; Missouri Probation and Parole Officers Association; Missouri State Fraternal Order of Police; Missouri Coalition Against Domestic and Sexual Violence; American Civil Liberties Union of Eastern Missouri; Missouri Association of Counties; and Missouri Association for Social Welfare.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say that it will reduce the prison population and hopefully lead to more people completing their parole successfully. However, there are some concerns in how the transition to this new plan will occur, specifically how there will be an increase in workload for probation and parole officers. A trial judge should be part of the joint committee and the process of reviewing the criminal code.

Testifying on the bill were Service Employees International Union MO/KS State Council; Missouri Associate Circuit Judge Voluntary Fund; and Karen Ferguson.