

HCS HB 541 -- JUVENILE OFFENDERS

SPONSOR: Hicks

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Judiciary by a vote of 11 to 0.

This substitute requires a child to be convicted in a court of general jurisdiction in order for the jurisdiction of the juvenile court over that child to forever terminate for an act that would be a violation of a state law or municipal ordinance.

Currently, if a child is under 17 years old and has been convicted in a court of general jurisdiction, the court is allowed to invoke dual jurisdiction of both the criminal and juvenile codes. The substitute raises the age to 17 years and six months of age and requires the court to consider dual jurisdiction.

If the Division of Youth Services within the Department of Social Services agrees to accept a youth and the court does not impose a juvenile disposition, the court must make findings on the record as to why the division was not appropriate for an offender prior to imposing an adult criminal sentence.

The substitute specifies that if an offender has not reached his or her eighteenth birthday at the time of committing the offense of first degree murder, the punishment must be life imprisonment without the eligibility for probation, parole, or release except by act of the governor or life imprisonment with eligibility for parole after 50 years. If the offender has not reached his or her eighteenth birthday at the time of committing the crime, the court must hold a hearing upon a motion of the prosecuting attorney to determine if the mandatory life sentence will be without the possibility of parole or with the eligibility for parole after 50 years. The motion must be filed within 14 days of the offender's conviction and specify the basis on which the prosecuting attorney believes the proper sentence is life without the possibility of parole. If the motion is not timely filed, the sentence must be life with eligibility for parole after 50 years.

The sentencing court is required to specify on the record the statutory aggravating and mitigating circumstances considered by the court and the reasons supporting the sentence imposed. The substitute specifies that any person sentenced to life without eligibility for probation or parole who was sentenced prior to the effective date of these provisions may file a motion in the sentencing court for a sentencing hearing, which must be heard by the judge. The court must determine if the sentence of life imprisonment without probation or parole must remain, or if the

sentence should be amended to life with eligibility for parole after 50 years.

The substitute contains an emergency clause for the provisions regarding first degree murder.

PROPONENTS: Supporters say that this bill makes the dual jurisdiction available to more youths by extending the age to 17 years and six months of age and requires the court to make findings on the record in cases where the court declines to exercise juvenile jurisdiction. The criminal and juvenile review committees of the Missouri Bar Association uniformly supported the changes the bill makes to the dual jurisdiction program.

Testifying for the bill were Representative Hicks; Missouri Division of Youth Services; Tracy McClard; American Civil Liberties Union of Eastern Missouri; Missouri Bar Association; Partnership for Children; Missouri Kids First.

OPPONENTS: There was no opposition voiced to the committee.