

HCS SS SCS SB 572 -- MUNICIPALITIES

SPONSOR: Schmitt (Cornejo)

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Civil and Criminal Proceedings by a vote of 9 to 3. Voted "Do Pass with HCS" by the Select Committee on Judiciary by a vote of 7 to 0.

This bill changes the definition for minor traffic violation to include traffic ordinance violations for which no points are assessed to a driver's driving record and amended charges for any minor traffic violation and adds a definition for municipal ordinance violations. Municipal ordinance violations and amended charges for municipal ordinance violations are added to the calculation limiting the percentage of annual general operating revenue that can come from fines and court costs for minor violations and to provisions regarding fines, imprisonment, and court costs in municipal court cases.

Municipal courts are prohibited from charging defendants for costs associated with community service alternatives. Municipal ordinance violations are also added to municipal disincorporation provisions if a municipality fails to remit excess annual general operating revenue to the Department of Revenue for the county school fund and the disincorporation threshold has been lowered from 60% to a majority of participating voters. The bill specifies that the state is not liable for the debts of a municipality that is financially insolvent.

The bill creates "persistent ordinance offender" and "prior ordinance offender" categories for purposes of municipal ordinance penalties.

No municipal court judge can serve as a municipal court judge in more than three municipalities at one time.

Any court automation system used by a municipal court is prohibited from including in their records the home address of certain specified individuals when such person notifies the automation system of their status.

The minimum standards for municipalities in St. Louis County pertaining to a construction code review do not require the municipality to adopt an updated construction code. The bill also includes a provision specifying the notice that must be given to property owners regarding ordinance violations, thereby codifying *City of Kansas City v. McGary*, 218 S.W.3d 449 (Mo.App. 2006). The bill establishes procedures to allow certain cities to

disincorporate.

PROPOSERS: Supporters say that last year, in SB 5, the General Assembly attempted to make the most sweeping municipal court reform legislation in the history of the state. After passing that bill, the goal was to be mindful of other ways municipalities would attempt to make up for the revenue lost due to the provisions of SB 5. This bill seeks to pull in certain infractions to give them the same protections afforded in SB 5. Kansas City is currently being sued over a warrant fee. Landlords like this legislation because it would save them money. Some municipalities have increased collection of their non-moving violations to make up for lost revenue. There are over 52,000 pages of ordinances in St. Louis County alone; in comparison, there are approximately 9,000 pages in the federal tax code. The municipal courts continue to act as revenue generators to prop up the financial conditions of the municipality. When ordinance violations are issued primarily to prop up cash strapped governments, something isn't right with the order of things. This bill helps ensure the financial penalties for municipal ordinance violations are used primarily as a deterrence mechanism.

Testifying for the bill were Senator Schmitt; Missouri Association of Realtors; Marins Johnson-Malone, Better Together St. Louis; Civic Progress Action Committee; St. Louis Regional Chamber Of Commerce; Missouri Alliance For Freedom; Abate For Missouri; and Missouri State Fraternal Order of Police.

OPPOSERS: Those who oppose the bill say the impact of SB 5 is that it has allowed a class of offenders to violate and ignore the law with impunity. In Independence, their population is older and low income, and they rely on the city to provide clean and safe neighborhoods. Their law abiding citizens would be harmed by this legislation, as it will necessarily result in the city reducing city services. They do not have the man power or mindset to patrol their jurisdiction for frivolous ordinance violations. As revenues decline, they will be less responsive to violations and the needs of their citizens due to the lack of resources. The Mayor of Independence asks that the bill be amended so that cities can use an escalating fine structure to address repeat and chronic offenders and to reinstate the court's authority to impose jail time and revoke driving privileges. Citizens want strong code enforcement for a variety of reasons, from maintaining property values and promoting safety to preventing eyesores. One judge testified that he will routinely waive the costs and fees for violations, all he is interested in is getting the nuisance and housing violations remedied; he cares about compliance, not generating revenue. According to witness testimony, a woman who testified on this bill in the Senate claiming that she had

voluminous fines and violations, but a Sunshine request from Pagedale evidences that witness, in fact, had only three violations and has not paid any fines. One judge testified that after the provisions of SB 5 went into effect, the only people they can address now are the people that actually come to court and plead guilty. The person that is responsible enough to come to court and pay his or her fine is worse off than the person who commits the same violation and just ignores the judicial process. In Kansas City, they have over 20,000 people driving around without insurance; that isn't a minor traffic issue. Being able to monitor individuals who commit what are minor infractions could prevent these same individuals from engaging in behavior that could lead to more serious results. Kansas City handles a lot of cases that really should be with the county, but Jackson County simply cannot handle them due to the volume and lack of resources.

This bill creates a threat to the safety of our communities because it begs the question, at what point does the justice system fail these people when they are not able to adequately respond to minor infractions and thereby prevent more tragic events from occurring down the road? If a person gets a ticket for speeding and refuses to come to court; gets 10 more of the same speeding tickets, still refuses to come to court; then again is speeding and hits another car and kills a kid, at what point did the justice system become responsible for failing to intervene and address this person and their behavior? The courts need the threat of jail time in order to get people to comply and turn their life around. By eliminating the jail sentence you eliminate the incentive for compliance. For Kansas City it was never about getting money, it was about rehabilitating their citizens and curing the violations. This bill would devastate property values. Reducing the fines after such a short period after implementing SB 5 provisions isn't giving enough time to see the full impact of SB 5. The Department of Revenue has not set up the tax intercept form yet.

SB 5 is currently being litigated in court; to come back less than a year later while that bill is still in court is premature. Prosecutors are concerned that by taking away a range of punishment, you are hindering their ability to get compliance. Kansas City is the only municipality required by state law to have a municipal court. In Kansas City, the "revenue" they generate from their fines isn't even enough to fully fund the municipal court. Incarceration as a sentencing option is not meant to jail people; it costs more to house these people. The object is to have that pivotal and important option in order to get compliance. Out of town property owners of rental units will have no incentive to comply with codes and will not care if the property becomes blight.

Testifying against the bill were Michael Clynch, City Of Moscow

Mills; David Slater, Mo Metro Mayors' Caucus; Marvin Megee, City Of Greenwood; Elleen Weir, City Of Independence; Andrew Warlen, City Of Independence; Tom Scannell, City Of Independence; Charlie Dissell, City Of Independence; John Cato, Independence Police; Mitch Langford, City Of Independence; Mary Ann Metheny, Hope House; Johnathan Zerr, Independence Chamber Of Commerce; Laura Dominik; Mark Levitt; Greg Hallgrimson, Greenwood Police Dept.; City Of Joplin; City Of Florrissant; Todd Wilcher, Kansas City Housing Court; Chris Krehmeyer, Beyond Housing; Ardie Bland, Kansas City Municipal Court; Don Lograsso; Jeff Chapple, O'Fallon Municipal Court; Lowell Gard, Kansas City; Jon Dalton; Megan Pfannenstiel, Kansas City Municipal Court; Kansas City Missouri; Missouri Municipal League; and St. Louis County Municipal League.