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HCS SCS SB 618 -- CRIMINAL OFFENDERS

SPONSOR: Wallingford

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Civil and Criminal Proceedings by a vote of 8 to 0. Voted "Do Pass with HCS" by the Select Committee on Judiciary by a vote of 8 to 0.

This bill modifies provisions relating to criminal offenders. Currently, any child under the age of 17 who has been certified as an adult may be detained in an adult jail prior to trial.

Beginning January 1, 2018, this bill prohibits the detention of any child certified as an adult in an adult jail until the child has been sentenced or turns 17 years of age, or unless the child was placed by the court in one of the Department of Corrections' 120-day programs, or upon the request and a showing of good cause by the director of an alternative detention facility to the court. Any child certified as an adult on or after January 1, 2018, must be detained in an alternative detention facility, as defined in the bill.

This bill requires the Division of Youth Services in collaboration with the Office of State Courts Administrator to establish the Certified Youth Jail Removal Workgroup to develop by January 1, 2018, a plan for the removal of certified children from adult jail pending trial and sentencing. By January 1, 2017, the workgroup shall make recommendations to the General Assembly regarding the establishment of alternative detention facilities for children who have been certified as adults. The workgroup shall automatically terminate on September 1, 2018.

The bill provides that, when a juvenile court has a rule or otherwise requires the use of restraints during proceedings, the juvenile's attorney must have the right to be heard on a request that the restraints not be used. If the court orders the use of restraints, the court must make findings of fact in support of the use of restraints.

The department of corrections must establish by rule policies and procedures for the transportation, evaluation, and treatment of pregnant and postpartum offenders and must consult with physicians, nursing, correctional, and other professional organizations in establishing such rules. The rules must include certain specified provisions pertaining to the shackling of pregnant inmates.

In the event a chief administrative officer or their designee

determines that extraordinary circumstances exist and restraints are used, the chief administrative officer or their designee must fully document in writing within seven days of the incident the reasons he or she determined such extraordinary circumstances existed, the kind of restraints used, and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances. The bill specifies that "extraordinary circumstances" exist when a chief administrative officer or their designee makes a determination that restraints are necessary to prevent a pregnant or postpartum offender from escaping or seriously injuring herself, her unborn or newborn child, medical or correctional personnel, or others.

The sentencing and corrections oversight commission and the advisory committee must conduct biannual reviews of every report written on the use of restraints on a pregnant or postpartum offender to determine compliance with these provisions. The written reports must be kept on file by the department for five years.

The chief administrative officer of each correctional center that houses pregnant and postpartum offenders must ensure the employees of the correctional center who come in contact with pregnant or postpartum offenders are provided with training, which may include online training, on these provisions; and inform female offenders of the policies and procedures developed in accordance with this section upon admission to the correctional center, including the policies and procedures in the offender handbook, and post the policies and procedures in locations in the correctional center where such notices are commonly posted and will be seen by female offenders, including common housing areas and health care facilities.

PROPOSERS: Supporters say that study after study shows that youth in adult facilities experience a high suicide rate. Exposure to adult criminals has a negative impact on incarcerated youth. Holding youth in adult facilities pretrial is problematic because it exposes the child to the adult system prior to ever being convicted. We should not expose them to such conditions when one in five of these youth will never be convicted. Removing youth from adult facilities is the most cost effective way to comply with PREA; retrofitting existing adult facilities is not financially feasible. There was a case in Arkansas in which a woman was shackled while pregnant and it caused her permanent physical damage. This bill places the discretion to determine whether extraordinary circumstances in the hands of the physician, not the corrections officer.

Testifying for the bill were Senator Wallingford; Katherine Kerbs;

NARAL Pro-Choice Missouri; Britteny Pheger; Campaign Life Missouri; Missouri Catholic Conference; Families Organized To Reform Juvenile Justice; ACLU Of Missouri; Planned Parenthood Advocates; Mary Beck; Missouri Juvenile Justice Association; M&R Strategic Services; and the March Of Dimes.

OPPONENTS: There was no opposition voiced to the committee.

PROPONENTS: Supporters say that

Testifying for the bill were Senator Wallingford; Katherine Kerbs; Alison Dreith, Naral Pro-Choice Missouri; Britteny Pheger; Samuel Lee, Campaign Life Missouri; Rita Linhardt, Missouri Catholic Conference; Tracy McClard, Families Organized To Reform Juvenile Justice; Sarah Rossi, Aclu Of Missouri; M'Evie Mead, Planned Parenthood Advocates; Mary Beck; Michael David Grote, Mo Juvenile Justice Association ; Steven R Carroll, M&R Strategic Services; Kaycee Nail, March Of Dimes.

OPPONENTS: There was no opposition voiced to the committee.