

HCS SS SCS SB 663 -- ADMINISTRATION OF JUSTICE

SPONSOR: Dixon (Corlew)

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Civil and Criminal Proceedings by a vote of 5 to 0. Voted "Do Pass with HCS" by the Select Committee on Judiciary by a vote of 5 to 1.

This bill modifies provisions relating to law enforcement officers, preparation of land descriptions, court funds, circuit courts, crime, civil actions, and public defenders.

DOMESTIC ASSAULT VICTIMS (Sections 43.545, 455.543, 455.545, 595.209 and 173.2050, RSMo)

This bill requires that victims of domestic assault and any offense under Chapter 566, RSMo, are afforded certain specified rights, including the right to be notified when their assailant is being released on bond or for any other reason.

This bill establishes the requirement that every law enforcement agency must submit crime incident reports for the month to the Department of Public Safety by the 20th of the following month and requires the State Highway Patrol to include incidents of domestic violence, regardless of whether an arrest is made in the annual crime report.

The bill requires every public institution of higher education to enter into a memorandum of understanding with local law enforcement agencies concerning sexual assault, domestic violence, dating violence, and stalking, as defined in the federal Higher Education Act of 1965, 20 U.S.C. Section 1092(f), involving students both on and off campus. The memorandum must contain procedural requirements for reporting an offense, protocol for establishing who has jurisdiction, and criteria for determining when an offense is to be reported to law enforcement.

SHERIFF ASSISTANCE (Section 57.111)

Currently, sheriffs and deputy sheriffs may render assistance in an adjoining county upon the request of that county's sheriff. When rendering such assistance, the responding sheriffs and deputies have the same powers of arrest in the requesting county as they have in their own county. This bill provides that sheriffs and deputy sheriffs may render such assistance in any county in the state.

This bill also specifies that, for purposes of workers'

compensation, overtime, and expense reimbursement, any sheriff or deputy rendering assistance in another county shall be deemed an employee of the responding county sheriff's office.

This provision of the bill is the same as a provision of SB 734, SCS HB 1936 (2016), and SS SCS HB 218, and similar to SB 202 (2015).

FELONY CLASSIFICATIONS (Sections 192.2260, 301.559, 339.100, 400.9-501, 571.020 - 571.072, 632.520, and Section B)

During the 2014 session, the General Assembly passed a large-scale revision of the Missouri Criminal Code, which included the addition of a class E felony and a modification of the terms of imprisonment for class C, D, and E felonies.

Currently, the maximum term for a class C felony is seven years and the maximum term for a class D felony is four years. Beginning January 1, 2017, when SB 491 (2014) takes effect, the term of imprisonment for a class C felony will be three to 10 years, the maximum term for a class D felony will be seven years, and the maximum term for a class E felony will be four years.

To reflect the change in the authorized terms of imprisonment, this bill modifies several crimes once classified as class C felonies to make them class D felonies and crimes once classified as class D felonies have become class E felonies.

These provisions are the same as SS SCS SB 590 (2016) and SS SCS SBs 112, 212, 143, & 234 (2015).

ELDER ABUSE REPORTING (Sections 192.2405, 192.2410, 192.2475 and 565.188)

Currently, certain types of people must report to the Department of Health and Senior Services if the person has reasonable cause to suspect that a person 60 years of age or older or an eligible adult has been subject to abuse or neglect. This bill provides that reports only need to be made if the victim is an eligible adult. The bill further adds emergency medical technicians, firefighters, and first responder to the list of mandated reporters. A provision regarding an investigation of abuse by an in-home services client manager and local area agency on aging training is repealed.

These provisions are the same as SS SCS SB 590 (2016) and are similar to SS SCS SBs 112, 212, 143, & 234 (2015).

REPORTING REQUIREMENTS IN LONG-TERM CARE FACILITIES (Section 198.070)

This bill amends the provision relating to reporting of suspected abuse and neglect of a resident of a long-term care facility who is sixty years of age or older or an eligible adult. Currently, a report is required to be made to the Department of Health and Senior Services in the event of suspected abuse and neglect. Under this bill, in the event of a suspected sexual assault of the resident, specified mandated reporters shall also report to local law enforcement under the procedures of the federal Elder Justice bill of 2009.

This provision is the same as SS SCS SB 590 (2016) and is similar to SS SCS SBs 112, 212, 143, & 234 (2015) and SB 971 (2014).

MIRANDA WARNINGS TO JUVENILE OFFENDERS (Section 211.059)

When a child is taken into custody currently, the law requires law enforcement officials to advise the child prior to questioning that the child has the right to remain silent, that any statement made can be used in court, has the right to have a parent present, and has the right to an attorney. This bill provides that any court recognized exception to the giving of Miranda warnings to an adult prior to interrogation shall also apply to this requirement that a child be given such advise.

This provision is the same as SS SCS SB 590 (2016).

JUVENILE SHACKLING (Section 211.436)

This 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.

This provision is the same as SB 918 (2016).

SHACKLING OF PREGNANT WOMEN (Section 217.151)

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 his or her 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 on-line 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.

TWO-WAY TELECOMMUNICATIONS DEVICES IN PRISONS AND JAILS (Sections 217.360 and 221.111)

Currently, it is a crime to possess, deliver, deposit, or conceal certain items in a prison or jail. This bill adds two-way telecommunications devices and their component parts to the list of prohibited items.

This bill provides that the prohibition on telecommunications devices does not apply to law enforcement officers lawfully engaged in their duties or any person who is authorized to use such a device in the facility.

This provision is the same as SB 689, SS SCS SB 590 (2016), and SS SCS SBs 112, 212, 143, & 234 and is similar to SB 252 (2015).

PROBATION AND PAROLE (Sections 217.670, and 217.690)

This bill removes the statutory provision allowing an offender to object to the use of videoconferencing at probation and parole hearings, and requires the Board of Probation and Parole to conduct an interview, rather than a personal interview, of the offender before ordering parole.

These provisions are the same as SCS SB 663 and SB 1006 (2016).

This bill requires a probation officer who has probable cause to believe a probationer has violated a condition of probation to notify the prosecuting or circuit attorney.

This provision is the same as SB 681 (2016) and SCS SB 31 (2015).

LIMITED DRIVING PRIVILEGE (Section 302.309)

Specifies that a veteran's treatment court is authorized to issue a limited driving privilege.

DRIVER'S LICENSES (Sections 302.440, 302.441, and 302.535)

This bill specifies that if a person is required to have an ignition interlock device installed on his or her vehicle, he or she may apply to the court for an employment exemption variance to allow him or her to drive an employer-owned vehicle not equipped with an ignition interlock device for employment purposes only. The bill prohibits this exemption from being granted to a person who is self-employed or who wholly or partially owns an entity that owns an employer-owned vehicle.

Any person granted an employment exemption variance under these provisions is prohibited from driving, operating, or being in physical control of an employer-owned vehicle used for transporting children under 18 years of age or vulnerable persons, or an employer-owned vehicle for personal use.

The bill specifies that the filing of a petition for trial de novo must not result in a stay of a driver's license suspension or revocation order and the department must issue a temporary driving permit which must be valid until a valid order is issued following the date of the disposition of the petition for trial de novo.

FAILURE TO YIELD (Section 304.351)

Currently, a person who causes physical injury or death to another person by failing to yield the right-of-way is subject to additional monetary penalties and driver's license suspensions.

This bill makes those penalties discretionary rather than mandatory. Under this bill, the maximum penalty for a person who causes physical injury to a person by failing to yield the right-of-way is increased from \$200 to \$500. In the case of serious physical injury this bill increases the maximum penalty from \$500 to \$1,000. This bill increases the maximum penalty for a person who causes the death of another person by failing to yield the right-of-way from \$1,000 to \$2,500. In addition, the person who causes a fatality by failing to yield the right-of-way may be required to successfully complete a driver-improvement program.

This provision is the same as a provision of SS SCS SB 590 and is similar to SB 917 (2016), SCS SB 267 (2015), SB 696, and HB 1149 (2014).

MINORS AND ALCOHOL (Section 311.310 and Section B)

Currently, it is a class B misdemeanor for a property owner to knowingly allow a person under the age of 21 to drink or possess intoxicating liquor or fail to stop a minor from drinking or possessing liquor. This bill makes the offense a class A misdemeanor. Any subsequent violation is a class E felony.

This provision takes effect January 1, 2017.

This provision is the same as SB 614 (2016) and SCS SB 30 (2015).

PREPARATION OF LAND DESCRIPTIONS (Section 327.272)

This bill specifies that nothing in the provision can be construed to preclude the practice of title insurance business or the business of title insurance as provided in Chapter 381, or to preclude the practice of law or law business as governed by the Missouri Supreme Court and as provided in Chapter 484.

This provision is the same as SB 828 and similar to provisions in HCS HB 2034 and HB 2257 (2016).

ELECTRONIC MONITORING WITH VICTIM NOTIFICATION (Section 455.095)

This bill provides that a court may place a person on electronic monitoring with victim notification if the person is charged with, or has been found guilty of, violating an order of protection. Electronic monitoring with victim notification is defined as a monitoring system that can monitor the movement of a person and immediately transmit the person's location to the victim and local law enforcement when the person enters a certain area.

The court only may place a person on electronic monitoring with

victim notification if the protected person has provided his or her informed consent. The phrase "informed consent" is defined under the bill.

The person being monitored must pay the costs associated with the monitoring unless he or she is determined by the court to be indigent. If determined to be indigent, the court clerk must notify the Department of Corrections and send a bill for the monitoring costs to the department. The department must establish a procedure to determine the portion of costs the indigent person is able to pay and must seek reimbursement of such costs. This bill gives the Department of Corrections rulemaking authority for this provision.

Under this bill, an alert is probable cause to arrest the monitored person for a violation of a protective order.

This bill requires the Department of Corrections, Department of Public Safety, State Highway Patrol, circuit courts, and local law enforcement agencies to share information obtained via the electronic monitoring.

This bill provides immunity from liability to suppliers of the electronic monitoring system for certain injuries associated with the use of the system.

These provisions expire August 28, 2022.

These provisions are the same as SB 678 (2016) and are similar to SB 86 (2015) and SCS SB 640 (2014).

COURT AUTOMATION FUND (Section 476.055)

The bill provides that any unexpended balance remaining in the Statewide Court Automation Fund shall be transferred to general revenue on September 1, 2023, rather than September 1, 2018, as provided in current law.

The bill also adds the executive director of the Missouri Office of Prosecution Services and the director of the State Public Defender System as members of the Court Automation Committee. The court fee collected for the court automation fund shall expire on September 1, 2023, rather than September 1, 2018, and the Court Automation Committee must complete its duties by September 1, 2025, rather than September 1, 2020.

These provisions are the same as provisions contained in HCS HB 2367 (2016).

CIRCUIT COURT MARSHAL (Section 476.083)

The bill allows the presiding judge of any circuit containing a diagnostic and reception center operated by the Department of Corrections and a mental health facility operated by the Department of Mental Health which houses certain persons specified in the bill to appoint a circuit court marshal.

This provision is the same as SB 860 and HB 1685 (2016) and similar to SB 532, HB 1182, and to provisions contained in SS SCS HB 799, CCS HCS SS SCS SB 67, and HB 473 (2015).

BASIC CIVIL LEGAL SERVICES FUND (Section 477.650)

The bill extends the expiration date for provisions regarding funding for the legal representation of low-income persons from December 31, 2018, to December 31, 2025.

ARMED OFFENDER DOCKET PILOT PROJECT (Section 478.252)

This bill allows specified counties to establish the Armed Offender Docket Pilot Project. The docket must have dedicated judges and other personnel for all matters of hearing, setting of bail, trial, sentencing, and supervision in all actions in which the highest level of charge is for one of several enumerated weapons-related offenses.

This bill also allows the circuit court to impose a \$30 surcharge on each criminal case assigned to the armed offender docket.

The court must publish an annual public report in the operations of the docket.

The provisions of this section expire on December 31, 2022.

This provision is the same as HB 2236 and similar to provisions in HB 1995 (2016), HCS SS#2 SCS SBs 199, 417, & 42, and HCS HB 1044 (2015).

JUDICIAL CIRCUITS (Sections 478.330 and 478.705)

This bill provides that when an annual judicial performance report indicates for three consecutive years that a judicial circuit is in need of two or more full-time judicial positions then, subject to appropriations, there shall be one additional circuit judge position authorized in that circuit. This bill also adds a circuit court judge to the Twenty-Sixth Judicial Circuit. The judge shall be elected in 2020, and until such time the Governor shall appoint someone to serve as judge.

MUNICIPAL COURT JUDGES (Section 479.020)

This section specifies that no municipal court judge can serve as a municipal court judge in more than five municipalities at one time.

RECORDS OF CHILD VICTIMS OF SEX OFFENSES (Sections 510.035, 545.950, and 595.226)

Under this bill, any visual or aural recordings or photographs of a minor, if that minor is alleged to be a victim of a sexual offense, created by or in the possession of a child assessment center, health care provider, or multidisciplinary team, shall not be copied or distributed to any individual or entity except as specifically provided in the bill or as required by Supreme Court rule or a court order. The following persons or entities may access or share any copies of recordings or photographs for the following reasons:

- (1) Members of a multidisciplinary team for investigatory and related purposes;
- (2) Department of Social Services employees and their legal counsel for the provision of child protection and for administrative proceedings;
- (3) Department of Mental Health employees and their legal counsel for investigatory purposes and administrative proceedings;
- (4) The Office of the Child Advocate for reviews;
- (5) The Child Abuse and Neglect Review Board for reviews; and
- (6) The Attorney General as part of a legal proceeding.

If a court orders the copying or distribution of the recordings or photographs, the order shall limit the use of such recordings or photographs, prohibit further copying, and either require the return of the copies upon final disposition of the case or an affidavit certifying the destruction of such copies. In a criminal proceeding, the defendant's attorney, investigator, consulting legal counsel, or other agent shall not copy or distribute to a third party any recordings or photographs unless a court orders the copying or distribution upon a showing of good cause, notice and a hearing, and consideration of the safety and privacy interests of any victim. The defendant's attorney, investigator, consulting legal counsel, or other agent may allow a defendant, witness, or prospective witness to view such recordings or photographs, but

shall not allow such person to have any copies.

Currently, any information contained in any court record that could be used to identify or locate a victim of a sexual offense, domestic assault, or stalking is closed and redacted from such record prior to disclosure to the public. This bill includes visual or aural recordings, including unobstructed visual images of the victim's face or body, in the information to be closed and redacted.

These provisions are substantially similar to SCS SB 971 and HCS HB 2202 (2016).

LESSER-INCLUDED OFFENSES (Section 556.046)

Currently, the court is not obligated to instruct the jury on an included offense unless there is a basis for a verdict acquitting the person of the offense charged and convicting the person of the included offense.

The court is obligated to instruct the jury with respect to a particular included offense only if there is a basis in the evidence for acquitting the person of the immediately higher included offense and there is a basis in the evidence for convicting the person of that particular included offense.

This bill adds the word "rational" before the word "basis" in the provisions regarding when the court is and is not obligated to provide instructions on included offenses.

In addition, this bill specifies that it is intended to abrogate certain case law and apply retroactively.

This provision is the same as SB 929 (2016).

FELONY CLASSIFICATIONS FOR OFFENSES OUTSIDE THE CODE (Section 557.021)

Currently, for offenses outside the criminal code, if the felony is for a maximum term of imprisonment of less than ten years, it shall be considered a class D felony and if the maximum term is four years, it shall be considered a class E felony. This bill provides that to be considered a class D felony, the maximum term shall exceed four years but be less than 10 years and maximum term to be considered a class E felony shall be four years or less.

These provisions are the same as SS SCS SB 590 (2016).

FIREARMS (Sections 563.031, 571.030, and 571.111)

This bill specifies that an individual who is occupying private property under the authority of the property owner is permitted to use deadly force in specified situations.

A municipal or county prosecuting attorney or assistant prosecuting attorney or a municipal, associate circuit, or circuit judge who has completed the required firearms safety training course is added to the list of individuals who are exempt from specified provisions regarding the carrying of a concealed weapon.

A certificate of firearms safety training course completion may also be issued to an applicant who presents proof that he or she has passed a course conducted by an instructor certified by the National Rifle Association as specified in the bill and who also passes specified requirements in a course that is taught by a qualified firearms safety instructor.

LAW ENFORCEMENT USE OF FORCE (Section 563.046)

Currently, the use of physical force when making an arrest is not justified unless the arrest is lawful or the officer reasonably believes the arrest is lawful. This bill adds a provision stating that the use of force when making an arrest is also not justified unless the amount of force used was objectively reasonable in light of the totality of the facts and circumstances confronting the officer, regardless of the officer's intent or motivation.

Currently, a law enforcement officer may use deadly force when he or she reasonably believes the force is immediately necessary to effect an arrest and reasonably believes the suspect has committed or attempted to commit a felony, is attempting to escape by use of a deadly weapon, or may otherwise endanger life or seriously injure another person.

This bill allows a law enforcement officer to use deadly force when effecting an arrest or preventing an escape from custody if the officer reasonably believes the force is immediately necessary to make the arrest or prevent the escape and reasonably believes the person has committed or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury, is attempting to escape by use of a deadly weapon, or may otherwise pose a threat of serious physical injury to the officer or others unless arrested without delay.

This provision contains an emergency clause.

This provision is the same as SCS SBs 661, 726 & 741, SB 741 (2016) and the perfected version of SS SCS SBs 199, 417, & 42 (2015).

FIRST DEGREE MURDER (Sections 565.030 - 565.040)

This bill repeals obsolete provisions stating that certain trials are to proceed in a single stage. Other technical changes were made in this bill to make the provisions align with amendments to the criminal code in SB 491 (2014).

These provisions are the same as SS SCS SB 590 (2016).

STALKING (Section 565.225)

This bill adds the act of knowingly accessing, or attempting to access, the address of a participant of the address confidentiality program administered by the Secretary of State to the elements of aggravated stalking.

Beginning in 2017, as a result of SB 491 (2014), aggravated stalking will be known as stalking in the first degree. This bill also adds the act of knowingly accessing, or attempting to access, the address of a participant of the address confidentiality program to the elements of first degree stalking.

This provision is the same as SB 886 and a provision of SS SCS SB 590 (2016) and SS SCS SBs 112, 212, 143, & 234 (2015) and is similar to SB 710 (2014).

SEX TRAFFICKING (Sections 566.209, 566.210, 566.211, 566.212, and 566.213)

Currently, a person commits trafficking for the purposes of sexual exploitation if he or she knowingly recruits, entices, harbors, transports, provides, or obtains another person for sexual conduct, a sexual performance, or the production of explicit sexual material without his or her consent. This bill adds, as an element to the crime, advertising the availability of another person for sexual conduct or a commercial sex bill without his or her consent.

Currently, a person commits sexual trafficking of a child by knowingly recruiting, enticing, harboring, transporting, providing, or obtaining a child to participate in a commercial sex act, a sexual performance, or the production of sexually explicit material. This bill adds, as an element of sexual trafficking of a child, advertising the availability of a child to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material.

These provisions are the same as HCS HB 1562, SCS SB 804 (2016) and are similar to SCS HB 152 (2015).

CRIMINAL NONSUPPORT (Section 568.040)

This bill removes a reference to the issue of good cause from a provision providing that the defendant has the burden of injecting certain issues.

SECOND DEGREE TAMPERING (Section 569.090)

This bill updates an intersectional reference to the stealing statute, which was reconfigured under the 2014 Criminal Code revision.

PROHIBITED ACTS INVOLVING CROPS (Sections 569.132 and 578.416)

This bill modifies the offense of prohibited acts involving crops by adding the acts of intentionally contaminating and weakening property in or on land on which a crop is located.

OFFENSE OF PEACE DISTURBANCE (Section 574.010)

A person does not commit the offense of peace disturbance if the loud noise or noxious odor arises from the raising and keeping of livestock or the planting, care, and harvesting of crops and hay.

This provision is the same as HB 2368 and similar to provisions contained in SCS SB 663 and HCS HB 1632 (2016).

INTOXICATION-RELATED BOATING AND TRAFFIC OFFENSES (Sections 577.001, 577.010, 577.011, 577.012, and 577.013)

This bill provides that a person is an "aggravated boating offender" if he or she has been found guilty of two or more intoxication-related boating offenses committed on separate occasions when at least one of the incidents involved the defendant injuring or killing another person while operating a vessel while intoxicated.

In addition, this bill reinserts county and municipal ordinance violations of driving under the influence of alcohol or drugs into the definition of "intoxication-related traffic offense." Such municipal and county ordinance violations are included in the definition currently, but not in the Revised Code.

The definition of "persistent offender" was also modified under the bill to include a person who has been found guilty of one intoxication-related traffic offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed. Similar changes were made to the definition of

"persistent boating offender."

These provisions are the same as SS SCS SB 590 (2016) and are similar to provisions of SS SCS SBs 112, 212, 143, & 234 (2015).

Under this bill, a person who has been found guilty of driving while intoxicated must complete a victim impact program approved by the court. The person is responsible for any charges imposed by the program.

This provision is the same as SB 890 and is similar to HB 1436 (2016).

This bill specifies that habitual offenders of intoxication-related traffic and boating offenses must serve two years in prison before being eligible for probation.

OFFENSE OF LEAVING THE SCENE OF AN ACCIDENT (Section 577.060)

Currently, leaving the scene of an accident is a class D felony if physical injury was caused to another party. Beginning in 2017, when the revisions to the Criminal Code take effect, the penalty is a class E felony.

Under this bill, it is a class C felony if the accident resulted in death, and, beginning in 2017, it will be a class D felony if the accident resulted in death.

This provision is the same as HB 2551 (2016).

This bill also provides that the offense of leaving the scene of an accident is a class E felony beginning January 1, 2017 if the defendant has previously been found guilty of the same offense.

This provision is the same as SS SCS SB 590 (2016).

ANIMAL OR LIVESTOCK TRESPASS (Sections 578.005 - 578.040)

Currently, the crime of animal trespass is defined as a person having ownership of an animal who fails to provide adequate control of the animal for a period of 12 hours or more.

Under this bill, a person commits the offense of animal or livestock trespass by either failing to provide adequate control of any animal except livestock when the animal trespasses on another person's property or failing to provide adequate control of livestock for a period of 12 hours or more when the livestock trespasses on another person's property.

In addition, this bill removes the maximum fines that may be charged for animal or livestock trespass, which potentially conflict with another provision of law setting the maximum fines for infractions and class C misdemeanors. This bill repeals a provision stating that reasonable costs for the care and maintenance of trespassing animals may not be waived.

These provisions are the same as SB 721 and provisions of SS SCS SB 590 (2016) and SS SCS SBs 112, 212, 143, and 234 (2015).

LAW ENFORCEMENT DOGS (Sections 578.007 & 578.022)

Currently, the killing of an animal that is not on its owner's property when the animal is injuring a person or farm animal is exempt from the animal abuse statute. The exemption specifies that it does not apply to police or guard dogs while working. This bill replaces the reference to "police or guard dogs" with a reference to "law enforcement officer dog" and provides that the exemption does not include the killing or injuring of such dogs.

In addition, currently, law enforcement dogs that bite in the course of their official duties are exempt from certain criminal and civil liabilities. This bill specifies that injuries caused by such dogs are also exempt from liability and adds a reference to the offense of animal abuse to the list of liabilities that do not apply to police dogs.

These provisions are the same as SS SCS SB 590 (2016).

MARIJUANA POSSESSION (Section 579.015)

Beginning in 2017, the possession of more than 10 grams but less than 36 grams of marijuana or synthetic cannabinoid is a class A misdemeanor. This bill provides that more than 10 grams but 35 grams or less of marijuana or synthetic cannabinoid is a class A misdemeanor.

This provision is the same as a provision of SS SCS SB 590 (2016).

PUBLIC DEFENDERS (Sections 600.042, 600.090, and 600.101)

Currently, the Director of the State Public Defender System must implement a plan to establish district offices that align with judicial circuit boundaries by December 31, 2018. This bill extends the date of implementation to December 31, 2021.

Currently, the director of the Missouri State Public Defender System is allowed to delegate the legal representation of any person to any licensed attorney. This bill specifies that the

director can delegate the legal representation of people who are eligible for representation by the Public Defender System.

In addition, currently, unexpended funds of up to \$150,000 are allowed to remain in the Legal Defense and Defender Fund at the end of the fiscal year. This bill removes the cap, so all unexpended money remains in the fund.

These provisions are the same as provisions of SB 705 (2016) and SCS SB 91 (2015).

This bill repeals a provision requiring the Commission on Judicial Resources to report to certain Senate and House committees regarding office space for public defenders.

This provision is the same as SB 735 (2016) and a provision of SCS SB 91 (2015).

MOBILE VIDEO RECORDINGS (Sections 610.026 and 610.100)

This bill modifies provisions relating to the Sunshine Law.

Currently, allowable fees for providing public records includes research time for fulfilling requests. This bill includes time spent reviewing records to determine whether or not the records are closed or authorized to be closed. A public body may waive or reduce fees if such waiver or reduction is in the public interest because the applicable fees are minimal and should be waived for administrative efficiency. Payment of copying, search, research and duplication fees may be requested prior to the making of copies or production of records.

Mobile video recordings from a law enforcement vehicle or a device carried by a law enforcement officer that includes a camera and recording capability are considered a closed record until the investigation becomes inactive. A mobile video recording in a nonpublic location may be closed, except that any person depicted in the recording or certain other persons may obtain a complete, unaltered and unedited copy of the recording.

The bill adds legal guardians or parents of a minor as being able to obtain closed investigative or mobile video records in the same way that any person could obtain such records.

Any person may bring an action to authorize disclosure of a mobile video recording and the court may order that all or part of the recording be released to the person. In making its determination on release, the court shall consider factors outlined in the bill, including the benefit to the public as opposed to the harm to the

public, to the law enforcement agency or its officers, or to any person identified in the recording. The mobile video recording may be examined by the court in its chambers. If disclosure of either a mobile video recording or an investigative report is authorized, the court may make any order that justice requires and set forth conditions for or limitations on the disclosure as authorized in the bill.

The bill provides that any person who requests and receives a mobile video recording that was recorded in a nonpublic location is prohibited from displaying or disclosing the recording without first affording any non-law enforcement person whose image or sound is contained in the recording the opportunity to seek a court order enjoining all or some of the display or disclosure. Any person who fails to comply with this provision is subject to damages in a civil action.

These provisions are the same as provisions of SB 1061 and SCS HB 1936 (2016).

CRIME SCENE EVIDENCE (Section 610.205)

This bill specifies that crime scene photographs and video recordings, including photographs and video recordings created or produced by a state or local agency or by a perpetrator or suspect at a crime scene, which depict or describe a deceased person in a state of dismemberment, decapitation, or similar mutilation including where the deceased person's genitalia are exposed, are considered closed records and not be subject to disclosure under open records laws. Such material may be disclosed to the decedent's next-of-kin or to an individual who has secured a written release from the next-of-kin. It is the responsibility of the next-of-kin to show proof of the familial relationship.

The bill authorizes a circuit court judge to order the disclosure of such photographs or video records in closed criminal investigations upon findings in writing that disclosure is in the public interest and outweighs any privacy interest that may be asserted by the deceased person's next-of-kin. In making such determination, the court must consider whether disclosure is necessary for public evaluation of governmental performance, the seriousness of the intrusion into the family's right to privacy, and whether disclosure is the least intrusive means available considering the availability of similar information in other public records. In any such action, the court is required to review the photographs or video recordings in question on camera with the custodian of the crime scene materials present and may condition any disclosure on any conditions the court deems necessary to accommodate the interests of the parties.

Prior to releasing any crime scene material, the custodian of the material must give the deceased person's next-of-kin at least two weeks' notice and the court is prohibited from ordering a disclosure which would disregard or shorten the duration of this notice requirement. These provisions apply to all undisclosed material which is in the custody of a state or local agency on the effective date of this section and to any such material which comes into the custody of a state or local agency after such date.

These provisions do not apply to disclosure of crime scene material to counsel representing a convicted defendant in a habeas corpus action, on a motion for new trial, or in a federal habeas corpus action under 28 U.S.C. Section 2254 or 2255 for the purpose of preparing to file or litigating such proceedings. Counsel may disclose these materials to his or her client and any expert or investigator assisting counsel but is prohibited from otherwise disseminating these materials, except to the extent they may be necessary exhibits in court proceedings.

A request for disclosure must clearly state that the request is being made for the purpose of preparing to file and litigate proceedings enumerated in these provisions.

EXONERATION (Section 650.058)

This bill specifies that when a court or board of probation and parole specifies the sole reason for a revocation of a person's probation or parole is the conviction for a crime for which a person is later determined to be innocent, the order must, for purposes of these provisions only, be conclusive evidence that the probation or parole was revoked in connection with the crime for which the person was exonerated.

PROPONENTS: Supporters say that this bill contains numerous provisions related to the administration of justice. The increases in penalties are actually criminal code revision clarifications, they need to be addressed before January 1, 2017, to bring them in line with the new criminal code.

Testifying for the bill were Senator Dixon; Abate For Missouri; and Maribeth Russell.

OPPONENTS: The ACLU disagrees with the deadly use of force portion of the bill. They object because the portion about using force when someone is suspected of committing a felony is prohibited by United State Supreme Court case law, unless there is a threat of harm to the public or an officer. The ACLU objects to other portions of the bill as well, such as all the new crimes and

increase in penalties for existing crimes. Our prisons are already over-crowded and this will just exacerbate that problem. Probation and parole officers should not be required to report every violation in order to have that person arrested. Motions to suppress, depositions in criminal cases, these are due process violations. The ACLU clarifies they do not object to criminal code clean up on offense classifications, just other increases in penalties. The Missouri Catholic Conference objects to adding terrorism as an aggravating circumstance to the first degree murder statute. Witnesses testified that creating the crime of illegal reentry is unconstitutional, because states cannot create crimes to punish offenses that amount to federal crimes.

Testifying against the bill were ACLU Of Missouri; Missouri Catholic Conference; St. Charles County; Kristan Bowen, Moms Demand Action For Gun Sense; Missouri Family Network; and Missouri Immigrant And Refugee Advocates.

OTHERS: Others testifying on the bill say the probation and parole provision in Section 217.722 strips probation officers of their discretion.

Testifying on the bill was The Britton Group, LLC.