

HCS SCS SB 804 -- JUDICIAL PROCEEDINGS

SPONSOR: Onder

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Civil and Criminal Proceedings by a vote of 6 to 3. Voted "Do Pass with HCS" by the Select Committee on Judiciary by a vote of 7 to 0.

This bill changes the laws relating to criminal judicial proceedings.

MIRANDA WARNINGS TO JUVENILE OFFENDERS (Section 211.059, RSMo)

When a child is taken into custody, current 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.

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.

TWO-WAY COMMUNICATION DEVICES IN PRISON (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.

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.

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

This bill adds knowingly advertising a specified minor to participate in a commercial sex act, performance, or the production of explicit sexual material to the offenses of sexual trafficking of a child in the first degree, sexual trafficking of a child in the second degree, sexual trafficking of a child, and sexual trafficking of a child under the age of 12.

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 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.

LAW ENFORCEMENT DOGS (Sections 578.007 - 578.022)

Under current law, 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, current law exempts law enforcement dogs that bite in the course of their official duties 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.

PROPOSERS: Supporters say that this bill is identical the version of HB 1562 (2016) that passed out of the House pertaining to sexual

trafficking.

Testifying for the bill were Senator Onder; Planned Parenthood Advocates; and the Missouri Coalition Against Domestic Violence.

OPPONENTS: There was no opposition voiced to the committee.