

HCS SS SB 1058 -- JUDICIAL PROCEDURES AND PERSONNEL

SPONSOR: Loudon (Pratt)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 12 to 0.

This substitute changes the laws regarding judicial procedures and personnel. In its main provisions, the substitute:

(1) Allows physicians and dentists who provide specialty care without compensation and who were referred by his or her city or county health department, city health department operating under a city charter, combined city-county health department, or a nonprofit community health center to be included in the list for whom the State Legal Expense Fund is available. The fund is not available to a physician who performs an abortion procedure;

(2) Limits claims arising out of Section 105.711, RSMo, to a maximum of \$1 million based upon the same act or acts in a single cause of action and \$1 million for any one claimant. Liability or malpractice insurance will not be considered available to pay any portion of the judgment when the fund is liable;

(3) Requires that marshals appointed for appellate courts be compensated at the same amount as the highest salary set for marshals of circuit courts;

(4) Allows a corporation to change the month of its corporate registration report by designating the desired month and paying an additional \$20 fee. Beginning January 1, 2007, a corporation will also be allowed to file a corporate registration report on a biennial basis. Corporations incorporated in an even-numbered year may only file a report in an even-numbered year, and corporations incorporated in an odd-numbered year may only file a report in odd-numbered years;

(5) Establishes the fee for filing a biennial corporate report at \$80 if filed in a written format and \$30 for an electronic format. Any corporation filing a biennial report must maintain the registration for two years, but may choose to file an annual registration in subsequent years;

(6) Allows an attorney to serve as a notary public until his or her commission is revoked. Notary status for an attorney will be revoked if the attorney's law license is suspended, revoked, or terminated;

(7) Requires attorney notaries to submit a one-time notary fee of \$75 and a \$10 fee to the Secretary of State's Technology Trust

Fund;

(8) Exempts attorney notaries from the surety bond provisions of the notary statute;

(9) Revises the laws to reflect recent changes in the Uniform Trust Code at the national level by limiting a settlor's ability to represent and bind beneficiaries in actions to amend or terminate trusts and adds a definition of "mandatory distribution";

(10) Changes cross references in the laws to conform with the Missouri Prudent Investor Act;

(11) Prevents special needs trusts from being subject to termination by an agreement of the settlor and beneficiaries;

(12) Protects discretionary interests in a trust from creditors;

(13) Abolishes the Doctrine of Worthier Title to prevent inadvertent disqualification of special needs trusts;

(14) Redefines "power of withdrawal" for uniform trust purposes;

(15) Modifies notice requirements for charitable beneficiaries;

(16) Allows qualified beneficiaries to represent other beneficiaries in actions to modify trust administrative provisions;

(17) Requires the registration of a trademark to be filed with a signed statement that the registrant has a bona fide intention to use the mark in commerce or in connection with the goods or services listed in the application;

(18) Allows a single application for the registration of the same trademark for goods or services in multiple classes and increases the registration fees from \$50 to \$75 for an application, from \$10 to \$20 for its renewal, and from \$50 to \$75 for an assignment;

(19) Requires a court, when it does not award a custody arrangement requested by either parent of the child, to make a written statement citing specific findings of fact and conclusions as to why it is not in the best interest of the child;

(20) Changes the laws regarding the information Missouri companies are required to provide or file with the Secretary of State;

- (21) Requires a limited liability company to provide a physical address in the company's articles of organization;
- (22) Requires a corporation to provide a physical address in the company's annual corporate registration report;
- (23) Requires a corporation's registered agent to keep a business office with a physical address identical to the registered office address;
- (24) Requires any foreign corporation authorized to do business in this state to keep a registered office with the same physical address as its registered agent;
- (25) Allows for electronic transfer of child support payments;
- (26) Revises the provisions regarding liens on commercial rental machines and equipment;
- (27) Authorizes a fee of \$1.50 on a municipal court filing to be deposited into the Basic Civil Legal Services Fund;
- (28) Authorizes a fee to be paid for cost-of-living adjustments for court reporter transcriptions;
- (29) Authorizes Kansas City municipal courts to assess and distribute to the municipality a \$2 surcharge on any municipal violation where the defendant pleads or is found guilty;
- (30) Allows a landlord to dispose of a tenant's personal property, without recourse by the tenant, when the landlord is enforcing a valid judgment for possession of the premises;
- (31) Sets the mandatory retirement age for municipal judges in Kansas City at 65 years of age;
- (32) Establishes the unlicensed practice of law as a class A misdemeanor;
- (33) Repeals the provisions authorizing the hiring of an attorney by the circuit clerk in the City of St. Louis to assist in the execution of his or her position as clerk;
- (34) Lowers the age for juvenile court jurisdiction over children to 15 years of age for non-felony violations related to state or municipal traffic ordinances or tobacco use;
- (35) Requires each county in the state to have at least one full-time deputy circuit clerk;

(36) Prohibits any judge not re-elected pursuant to the Missouri Court Plan's retention election provision to be appointed or serve as a senior judge or commissioner;

(37) Repeals the provision requiring junk and second-hand property dealers to keep a register for copper wire and cable sales;

(38) Prohibits persons from issuing or selling product service agreements without registering with and paying a fee to the Director of the Department of Insurance;

(39) Establishes reserve requirements for service agreement providers;

(40) Requires providers of product service agreements to maintain accurate records of every transaction for a period of at least three years after the specified period of coverage has expired;

(41) Authorizes the Department of Public Safety to create a program to distribute grants to multijurisdictional Internet cyber-crime law enforcement task forces and other law enforcement agencies;

(42) Modifies the writ of attachment provisions regarding witnesses in criminal cases and allows the court to discharge the witness after paying a bond amount necessary to secure the witness' future attendance in court;

(43) Authorizes municipal courts to assess municipal court costs to a consenting defendant in cases where the charges are dropped or dismissed;

(44) Defines "virtual visitation" as parenting time using a telephone, e-mail, instant messaging, video conferencing, or any other wired or wireless technologies over the Internet or other communication media;

(45) Requires the parties in a dissolution of marriage proceeding to submit in their proposed parenting plan a specific written schedule for virtual visitation, where appropriate;

(46) Requires each parent, unless otherwise denied by court order, to allow and encourage the other parent to have reasonable and uncensored communications through virtual visitation between a non-custodial parent and a child and between a child and the custodial parent when the child is with the non-custodial parent;

(47) Makes records and documents in connection with internal law

enforcement investigations relating to an officer's employment status, fitness, or conduct closed records. Records and documents involving allegations of criminal conduct by an officer are not subject to the closed records requirement;

(48) Requires any entity failing to commence construction of a solid waste processing facility within 60 months of receiving a permit to build to obtain approval from the local jurisdiction signifying that the subject of the permit is in compliance with all applicable zoning, building, and health code ordinances. Approval must be given prior to commencement of the construction;

(49) Removes money-back guarantees and express product warranties from oversight by the Department of Insurance;

(50) Requires vehicle protection product warrantors to keep accurate accounts, books, and records concerning transactions regulated by the Missouri Vehicle Protection Product Act;

(51) Prohibits a vehicle protection product warrantor from using in its name, contracts, or literature the words "insurance," "casualty," "surety," or "mutual" unless licensed as an insurance company;

(52) Prohibits a person from selling or offering for sale a vehicle protection product warranty unless it clearly states the terms and conditions governing the cancellation of the sale and warranty; and

(53) Prohibits any person from selling or offering for sale any vehicle protection product unless the warrantor acquires insurance under a warranty reimbursement insurance policy or maintains a net worth or stockholder's equity of \$50 million.

The substitute contains an emergency clause.

FISCAL NOTE: Estimated Income on General Revenue Fund of Unknown less than \$1,376,941 in FY 2007, Unknown less than \$982,043 in FY 2008, and Unknown less than \$549,267 in FY 2009. Estimated Income on Other State Funds of Up to \$1,455,661 in FY 2007, Up to \$1,646,152 in FY 2008, and Up to \$1,564,584 in FY 2009.

PROPOSERS: Supporters say that the bill addresses businesses selling products with guarantees. Money-back guarantees and product express warranties differ from insurance contracts and should not be regulated as such. The bill removes regulatory oversight by the Department of Insurance for product guarantees and express warranties.

Testifying for the bill were Senator Loudon; and National Vehicle

Protection Association.

OPPONENTS: There was no opposition voiced to the committee.

Alex Curchin, Legislative Analyst