

SS SCS HCS HB 583 -- CRIME VICTIMS

This bill changes the laws regarding the rights of victims of domestic violence and sexual assault.

MEDICAL EXAMINATIONS

The Department of Health and Senior Services is required to pay for forensic examinations of certain victims of sexual offenses. The medical provider performing the exam must file a report of the exam with the prosecuting attorney within three business days of its completion. The Attorney General is required to develop the forms and procedures for gathering evidence during forensic exams, and the department will develop a checklist for medical providers to use while providing treatment to victims. The State Highway Patrol must develop evidentiary collection kits for the forensic examination of sexual assault victims and distribute the kits to medical providers who perform the exams. No medical provider can charge a victim for the exam; but if the victim is eligible for moneys from the Crime Victims' Compensation Fund, the provider may seek compensation from the fund.

PROBATION AND PAROLE

The Board of Probation and Parole within the Department of Corrections must grant parole to any inmate who was convicted of the homicide of a spouse or domestic partner and has served 15 years of his or her sentence if the board determines the inmate will not violate the law in the future. In order to be eligible, the inmate must have pled guilty or begun his or her trial prior to December 31, 1990; must have had no prior violent felony convictions; must no longer have a cognizable legal claim; and must have a history of being a victim of continual and substantial physical or sexual domestic violence that was not presented as an affirmative defense at trial or sentencing and is corroborated with evidence of facts or circumstances which existed at the time of the alleged violence. A person will be guilty of perjury, a class C felony, for knowingly making false witness statements to the board. In cases where witness statements are conflicting as to whether the domestic violence occurred or was substantial and continual in nature, the history must be established by other corroborative evidence in addition to witness statements. A contradictory statement of the victim must not be deemed to be a conflicting statement.

MINOR'S ABILITY TO CONTRACT

Individuals 16 to 17 years of age who are homeless, self-supporting, and whose parents have given implied or express consent can enter into a contract to receive services as a victim

of domestic and sexual violence including, but not limited to, counseling, court advocacy, financial assistance, and other advocacy services.

RAPE CRISIS CENTERS

Rape crisis centers and their employees or volunteers are required to maintain confidentiality of information that would identify individuals served by the center and any information directly related to their services. Prior to providing advocacy services, the center must inform the individuals they serve of the nature and scope of the confidentiality requirements. An employee or volunteer of a rape crisis center cannot be required to testify concerning any confidential information unless waived by the individual served.

ORDERS OF PROTECTION

The bill requires the circuit clerk to notify by phone an individual who is petitioning for an ex parte order of protection when the order has been served or if no more attempts to serve are planned if the petitioner has opted to register a phone number with the victim notification system established in Section 650.310, RSMo. All attempts to serve orders of protection must be tracked by the agency responsible for serving the order.

VICTIMS OF CHILD PORNOGRAPHY

Beginning August 28, 2007, a child that was a victim of sexual exploitation or child pornography and who suffered physical or mental injury or illness as a result of the crime is entitled to civil litigation to recover actual and civil costs. All litigation must be filed by the time the child reaches 31 years of age or within three years of the date the victim discovers his or her mental or physical injury, whichever occurs later.

DOMESTIC ASSAULT

A person who commits domestic assault in the first degree will be guilty of a class A felony if he or she has previously pled guilty to or has been found guilty of committing the crime. Currently, this crime is a class B felony unless the person inflicts serious physical injury on the victim, in which case it is a class A felony.

SEXUAL ASSAULT VICTIMS

Victims of sexual assault or forcible rape will not be required to take polygraph tests or psychological stress evaluator exams

as a condition for proceeding with a criminal investigation. After August 28, 2007, information in court records that could be used to identify any victim of sexual assault, domestic assault, stalking, or forcible rape will be closed. Identifying information includes the name, address, telephone number, Social Security number, physical characteristics, or any other information that the court believes could be used to locate a victim.

ADDRESS CONFIDENTIALITY PROGRAM

The Address Confidentiality Program is established, administered by the Office of the Secretary of State, to protect victims of domestic violence, rape, sexual assault, or stalking by establishing a designated address for victims and their minor children. An adult, parent of a minor, or guardian of an incapacitated person can apply to the Secretary of State to have a designated address assigned. The application must contain certain information, including the person's mailing address, the applicant's signature, and a designation of the Secretary of State as agent for the purpose of service of process and receipt of first-class mail, legal documents, and certified mail. The applicant must supply a sworn statement that he or she is a victim of violence and fears further violent acts from his or her assailant. The applicant must also supply addresses that he or she does not want disclosed because it will jeopardize the applicant's safety. Upon receiving a properly completed application, the Secretary of State can certify the applicant as a program participant for four years and forward his or her first-class mail, legal documents, and certified mail. Notification of lapsing certification and a reapplication form must be sent to the program participant at least four weeks prior to expiration. The Secretary of State can cancel, with limited exceptions, the certification of a program participant if:

- (1) The participant obtains a name change;
- (2) There is a change in the mailing address from the person listed on the application and another address is not provided; or
- (3) The applicant or participant provides false information or makes false claims in the application or assists another person in doing so.

State and local agencies and the courts must accept the designated address as a program participant's address when creating new public records unless statute requires otherwise. The Secretary of State can make a program participant's address or mailing address available if requested by law enforcement or the director of a state agency if there is a statutory or

administrative requirement for the use of the address. The Secretary of State must make a program participant's addresses available:

(1) To a person identified in a court order when the order specifically requires the disclosure of a participant's address and the reasons for the disclosure; or

(2) If the certification has been canceled because the applicant or participant used false information in an application or made a false claim.

A program participant's application and supporting materials are not a public record and must be kept confidential.

VICTIM RIGHTS AT PUBLIC HEARINGS

A victim is allowed to offer a statement by counsel or a representative designated by the victim in lieu of a personal appearance at a hearing before juvenile authorities, the Board of Probation and Parole, or a mental health facility. The victim also has the right to have a partition set up in the probation and parole hearing room to shield the victim from the offender. An employer cannot discharge or discipline an employee for attending a criminal proceeding or require any witness, victim, or member of the victim's family to use vacation time, personal time, or sick leave for honoring a subpoena to testify at, attend, or participate in a criminal proceeding.

CRIME VICTIMS' COMPENSATION

A party aggrieved by a decision of the Department of Public Safety on a claim under the Crime Victims' Compensation Fund is allowed to file a petition with the Division of Workers' Compensation within the Department of Labor and Industrial Relations to have the decision heard by an administrative law judge. The petition must be filed within 30 days of notification of the decision. A decision of the administrative law judge is appealable to the Labor and Industrial Relations Commission with the decision appealable to a court of appeals.

In order to properly file a report of a sexual offense with the proper authorities, the report of the forensic exam may be filed with the prosecuting attorney. Under certain circumstances, a victim could receive payment for out-of-pocket losses from the Crime Victims' Compensation Fund for the value of the loss sustained up to \$250.

The provisions regarding the Address Confidentiality Program will expire six years from the effective date.