

HCS HB 1765 -- JUDICIAL PROCEEDINGS (Cornejo)

COMMITTEE OF ORIGIN: Standing Committee on Civil and Criminal Proceedings

This bill changes the laws regarding the administration of justice.

FELONY CLASSIFICATIONS (Sections 192.2260, 301.559, 339.100, 400.9-501, 571.020 - 571.072, & 632.520, RSMo)

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.

Under current law, 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.

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

Under current law, 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 responders 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regarding an investigation of abuse by an in-home services client manager and local area agency on aging training is repealed.

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 60 years of age or older or an eligible adult. Current law requires a report 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 Act of 2009.

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

Under current law, 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.

PROBATION AND PAROLE (Sections 217.670 & 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.

FIREARMS (Section 513.430)

Exempts firearms, firearm accessories, and ammunition up to \$1,500 from attachment and execution.

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 10 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.

OFFENSE OF CONSPIRACY (Section 562.014)

This bill modifies the offense of conspiracy by providing that if a person conspires to commit a number of offenses, such person can be found guilty of only one offense of conspiracy if the multiple offenses are the object of the same agreement.

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.

FIRST DEGREE TRESPASS (Section 569.140)

Under current law, a person commits the class B misdemeanor of first degree trespass by knowingly and unlawfully entering or remaining in another person's building or on another person's real property. This bill adds knowingly and unlawfully entering or remaining on a temporary or permanent privately owned structure attached to another person's building or property to the list of actions that constitute first degree trespass.

In order for the act to be first degree trespass, the attached structure must be fenced or otherwise enclosed or actual notice must be given to the trespasser in the form of actual communication or posting of the structure in a manner reasonably likely to come to the attention of the trespasser.

STEALING (Sections 570.010 & 570.030)

Under this bill, it is a class B felony to physically take or attempt to take property from a person when the property is owned by or in the custody of a financial institution. Physically taking property from a person is currently a class D felony, unless the property is \$25,000 or more in which case it is a class C felony. Financial institution is defined as a bank, trust company, savings and loan association, or credit union.

FRAUDULENT PROCUREMENT OF A CREDIT OR DEBIT DEVICE (Section 570.135)

This bill adds an element to the crime of fraudulent procurement of a credit or debit device. Under the new element, a person commits the class A misdemeanor if he or she knowingly possesses a fraudulently obtained credit or debit device.

Under current law, business entities must not be held liable for accepting fraudulent applications for credit or debit devices or using fraudulent credit or debit devices in transactions without

clear and convincing evidence that the business conspired with the fraudulent procuring of the credit or debit device. This bill specifies that such entities must not be held criminally liable without such evidence.

INTOXICATION-RELATED BOATING AND TRAFFIC OFFENSES (Section 577.001)

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 under current law, 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."

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

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

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.

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.