

HCS HB 1858 -- RECORDER OF DEEDS AND FALSE FILINGS

SPONSOR: Mathews

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Civil and Criminal Proceedings by a vote of 11 to 0. Voted "Do Pass with HCS" by the Select Committee on Judiciary by a vote of 9 to 1.

This bill creates the offense of filing a false document if he or she files, causes to be filed, or attempts to file, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, or transferred to the Secretary of State or his or her designee, any county recorder of deeds or his or her designee, any municipal, county, district, or state government entity or office, or any credit bureau or financial institution specified documents. For the first offense, filing a false document is a class D felony until December 31, 2016, and a class E felony beginning January 1, 2017. Filing false documents is a class C felony in certain specified instances.

The bill specifies that a system must be created in which suspicious filings are logged, and outlines the process for petitioning the court when a person has probable cause to believe a filing is fraudulent.

PROPOSERS: Supporters say that this bill has its origins in HB 1412 (2014). This bill intends to improve upon the 2014 bill and tighten up any loopholes. This will help protect citizens from these types of fraudulent filings. The bill will require non-conforming filings to be treated as provisional filings and give law enforcement time to review the filings. The intent is to have some up front prevention for these false filings. There would be no interaction or confrontation between the filer and the recorder; the filing would be accepted as provisional. Sometimes the filing of false documents does not meet the elements of more severe crimes, and could only be charged as a misdemeanor. One witness testified that a group of individuals calling themselves sovereign nationals started filing false claims with the county recorder's office, laying claim to their family home and with the local police department, claiming the group had a claim to the family's property and that the family had 10 days to vacate their home. The Chesterfield Police Department contacted the family to let them know they had received similar information that a group of individuals intended to unlawfully take their property. Routine police patrols started around their home, and on the ninth day, they relocated their family to a hotel. There is a gap in the law that does not allow them to prosecute these individuals. Beyond

the emotional toll this took on the family and their young children, they incurred financial costs for private security and legal counsel.

Testifying for the bill were Representative Mathews; Andrew Soll; Missouri Fraternal Order Of Police; St. Louis Police Officers Association; Greg Brown; Gary Dinwiddle, Ralls County Sheriff; Wendye Jansen, Missouri Organized Retail Crime; Recorders' Association Of Missouri; Jake Skouby, Missouri Association Of Prosecuting Attorneys; Joseph Patterson, Missouri Fraternal Order of Police-Lodge 15; Missouri Police Chiefs Association; Frederick Wagner; Dale Schmoser, and the Missouri Peace Officers Association.

OPPONENTS: Those who oppose the bill say that there already is law, Sections 428.105 to 428.135, RSMo, which prohibits the filing of non-consensual liens with the recorder's office or Secretary of State's office, although that law does not have criminal penalties. The law also already says that the filing can be rejected if it is non-consensual; the recorder can already reject filings that look suspicious.

Testifying against the bill was the Missouri Land Title Association.