

HCS HB 1065 -- CRIMINAL OFFENSES

SPONSOR: Evans

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 12 to 2. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 5 to 2.

This bill specifies that a court shall be obligated to charge the jury with respect to an included offense only if it is established by proof of the same or less than all the elements required to establish the commission of the offense charged, there is a rational basis in the evidence for a verdict acquitting the person of the offense charged and convicting the person of the included offense, and either party requests the court to charge the jury with respect to a specific included offense.

Failure of the defendant or defendant's counsel to request the court to charge the jury with respect to a specific included offense shall not be a basis for plain-error review on direct appeal or post-conviction relief. It shall be the trial court's duty to determine if a rational basis in the evidence for a verdict exists.

The bill changes the definition of "dangerous felony" under Section 556.061, RSMo.

The bill also provides that if an offender is determined to be a predatory sexual offender, the offender shall be sentenced to life without eligibility for probation or parole. Predatory sexual offenders shall not receive final discharge from parole or be furloughed by the Department of Corrections or any of its divisions. The bill specifies a two-stage process by which a second trial stage shall be held after the conviction of an offender to determine whether that offender is a predatory sexual offender.

The bill also creates a process for determining whether an offender is a prior or persistent sexual offender and creates provisions regarding the sentencing of prior and persistent sexual offenders, including the provisions that an offender determined to be a prior sexual offender shall be sentenced to the authorized term of imprisonment one class step higher than the offense for which the offender was found guilty, and that an offender determined to be a persistent sexual offender shall be sentenced to the authorized term of imprisonment two class steps higher for which the offender was found guilty.

The bill changes the offense of resisting or interfering with an arrest, detention, or stop to the offense of resisting, interfering with, or escaping or attempting to escape from detention or custody, and specifies that a person commits such offense when the person, while being held in custody after a stop or detention or after an arrest has been made, escapes or attempts to escape from custody. The offense is a class E felony unless a person is escaping or attempting to escape by means of a deadly weapon or dangerous instrument or by holding any person hostage, in which case the offense is a class A felony. Resisting an arrest, detention, or stop for a misdemeanor or an infraction under some circumstances, specified in the bill, is a class A misdemeanor.

PROPOSERS: Supporters say that this is a fix-it clarification bill. The law requires criminal charges to be specific so people know how to avoid the conduct. When there is any type of ambiguity, it gets argued on appeal and this is intended to address specific situations that have been argued as vague and to fix some things that were missed in the 2014 criminal code revision.

Testifying for the bill were Representative Evans; Missouri Association of Prosecuting Attorneys; and Missouri Office of Prosecution Services.

OPPOSERS: There was no opposition voiced to the committee.