

HCS HB 2374 -- OFFENSES COMMITTED AGAINST A BODY OF THE GENERAL ASSEMBLY

SPONSOR: Vescovo

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 14 to 0. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 7 to 2.

The following is a summary of the House Committee Substitute for HB 2374.

This bill specifies that, when a person is subpoenaed to testify or provide information at a proceeding before a body of the General Assembly, a court must issue, upon request from the President Pro Tem or the Speaker of the body that subpoenaed the person, an order requiring the person to testify or provide information if the person refuses to do so on the basis of the person's privilege against self-incrimination. Before issuing such an order, a court must find that the request for the order has been approved by a vote of a three-fifths majority of the members of the body requesting the order. If a witness refuses, on the basis of the privilege against self-incrimination, to testify or provide information and the person presiding over the proceeding informs the witness that an order requiring the testimony or production of information was issued, the witness must not refuse to comply with the order on the basis of the asserted privilege. However, no testimony or information compelled under the order may be used against the witness in any criminal proceeding other than perjury, giving a false statement, or otherwise failing to comply with the order.

If a witness summoned by a body of the General Assembly willfully fails to appear, refuses to answer any pertinent questions, or fails to produce required documents, a statement of facts regarding such failure may be reported to and filed with the President Pro Tem of the Senate or the Speaker of the House. Either the President Pro Tem or the Speaker may certify the statement of facts to the prosecuting or other attorney having jurisdiction to prosecute. The Attorney General will have concurrent original jurisdiction to commence a criminal action throughout the state. Upon request by the President Pro Tem or the Speaker of the originating body, the court must, within 15 days of the request, appoint independent counsel, who will have jurisdiction to prosecute under Section 575.330, RSMo. If independent counsel is appointed, such independent counsel will have sole jurisdiction to prosecute under such section.

The bill also specifies that:

(1) The offense of perjury is a class D felony if it is committed in any proceeding before a body of the General Assembly;

(2) The offense of making a false affidavit is a class A misdemeanor when it is done in any proceeding before a body of the General Assembly;

(3) The offense of tampering with a witness or victim is a class E felony when the witness is a witness in a proceeding before a body of the General Assembly;

(4) The offense of acceding to corruption when the person is a witness or prospective witness in a proceeding before a body of the General Assembly is a class D felony;

(5) A person commits the offense of obstructing government operations if he or she purposely obstructs, impairs, hinders, or perverts the performance of a governmental function by the use or threat of harm, intimidation, or coercion. The offense of obstructing government operations is a class A misdemeanor. However, if committed against a body of the General Assembly, it is a class E felony.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that this gives future legislatures means to find the truth. We need effective oversight mechanisms, and we need stiff penalties for those who attempt to mislead the General Assembly. It sends a strong message meant to deter individuals from coming to the Capitol and giving false testimony. The Special Investigative Committee on Oversight fell short, but it would have been less challenging if it had all the proper tools at its disposal. The bill requires the body to approve the mechanism, so it would only be used when absolutely necessary. This is modeled after the Federal "contempt of congress" law.

Testifying for the bill was Representative Vescovo.

OPPOSERS: There was no opposition voiced to the committee.