

2010 Missouri State Legislative Roundup

Pro-Life & Pro-Family Concerns Set the Stage for the Primary & General Elections

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The Missouri General Assembly is made up of 197 elected officials, divided into two distinct bodies that make up Missouri's legislative branch of state government. While there are hundreds of support staff and employees that help our Legislature operate in an amazingly civil and organized manner, it is the 163 members of the House of Representatives and 34 State Senators who occupy the state capitol in Jefferson City from early January thru mid-May that engage in the business of making the laws which the rest of us 5 ½ million Missourians live under.

The 2010 Missouri State General Assembly completed its annual legislative session on May 14th. They were called back into a special session by the Governor in late June to deal with the potential loss of up to 1,700 jobs in Kansas City due to closure of the Ford manufacturing plant. Still to come is a state constitutionally mandated Veto Session in September (pending potential vetoes from Governor Jay Nixon).

The grand stage for all this legislative activity is the elections which occur every two years, including this current year. What this means is an interesting political calendar. Following the initial five months of intense legislative activities the Governor has until mid-July to sign or veto bills "Truly Agreed to and Finally Passed" by the Legislature. Everyone called back into a special session before the Governor finishes evaluating what to do with the bills on his desk. Most bills signed by the Governor are constitutionally set to go into effect on August 28th. Three exceptions alter this date, budget bills are effective as of July 1, bills with "emergency clauses" are effective the moment the Governor signs them, and some bills have a specified effective date embedded in the legislation for specific reasons. (A bill may have one or more of these exceptions applied to only specified portions.)

Primary Elections on August 3rd will provide for the election of some of the new members of the House and Senate while setting the stage for the General Election on November 2nd. The combined results of these two elections will be the turnover of about one third of the General Assembly membership. Then, starting December 1st, lawmakers are allowed to “pre-file” legislative proposals for the 2011 General Assembly even though the entire House and half of the Senate will not even be sworn into office until the first week of January 2011.

The lifestyle of these lawmakers is complicated, hectic, and stressful. It is a non-stop barrage of activity that can be characterized under three basic headings of campaigning for office, fighting with or against each other on legislation, and contending with constituents they represent. While these three broad categories may sound distinctive, they are many-faceted and overlapping as the lines between them are oft times blurred and obscure.

As this article will only attempt to dissect the key results of the 2010 General Assembly on pro-life and pro-family issues, it is imperative that readers pursue more information about these same issues and how your Representative and Senator voted. Before you vote in the upcoming elections make sure you know how the candidates on your ballot relate to pro-life and pro-family concerns!

As is typical, there were about 1,900 bills introduced during the annual Legislative Session. While hundreds of these bills proposed a myriad of both positive and negative impacts on the institution of the Family, space limits our ability to recount the dozens of stories related to significant legislative clashes with lawmakers and issues that did NOT pass. This article will focus on those items that DID pass and which WILL alter life for all Missourians.

Note first that of the 1,900 introduced bills; only 92 survived the legislative gauntlet to be sent to the Governor’s desk. Add to these the 15 budget bills and the 2 special session bills and the grand total of only 109 represents less than 6% of the lawmakers total proposals crossed the finish line.

As you review the roundup below, be assured that you can check out any of these items, or the hundreds not included in this report, at the Missouri House and Senate’s official web sites: www.house.mo.gov and www.senate.mo.gov. Since this article is a report on the legislative results of 2010 in Missouri, it is NOT a dissection of the politics related to these items. To better understand any of the issues or the political dynamics related to these or other items, readers are encouraged to contact Missouri Family Network for the ‘inside’ stories and information on specific issues or lawmakers.

ABORTION & SANCTITY OF LIFE

HB 1327 & 2000 Informed Consent & Coercion Crimes SEE SB 793

SB 793 Informed Consent (now includes federal health insurance opt-out) **PASSED**

HB 2010 Alternatives to Abortion **PASSED**

HB 1365 Pharmacy Conscience Protection FAILED

HB 2252 PRC Tax Credit Reauthorization (sunsets in 2012) FAILED

HB 1725 Opt-out, federal health care SEE SB 793

SB 747 Opt-out, federal health care SEE SB 793

SB 971 Umbilical Cord Resource Education FAILED

HB 2081 Pregnant Woman's Protection Act PASSED

SB 792 Abortion reporting requirements FAILED

ALL OF THE PRO-ABORTION BILLS FAILED, INCLUDING:

SB 982 - Bray - Enacts the Prevention First Act

SB 1010 - Bray - Establishes the Compassionate Assistance for Rape Emergencies Act

SCR 40 - Justus - Ratifies the Equal Rights Amendment to the United States Constitution

SS/SCS/SB 793 - This act modifies the informed consent requirements for an abortion by adding new requirements to be obtained at least twenty-four hours prior to an abortion. Some of the new requirements include the physician who is to perform or induce the abortion or a qualified professional presenting to the pregnant woman various new printed materials to be developed by the Department of Health and Senior Services by November 30, 2010, detailing the risks of an abortion and the physiological characteristics of an unborn child at two-week gestational increments. The woman must also be provided with the gestational age of the unborn child at the time the abortion is to be performed and must be given an opportunity to view, at least 24 hours prior to an abortion, an active ultrasound of the unborn child and hear the heartbeat of the unborn child, if the heartbeat is audible. Prior to an abortion being performed past twenty-two weeks gestational age, the woman must be provided information regarding the possibility of the abortion causing pain to the unborn child.

In addition to the written informed consent, the act requires the physician or a qualified professional to discuss the medical assistance and counseling resources available, advise the woman of the father's liability for child support, and provide information about the Alternatives to Abortion Program. All information required to be provided to a woman shall be presented to her individually in the physical presence of the woman. The abortion cannot be performed until the woman certifies in writing on a checklist form that she has been presented all the required information and that she has been given the opportunity to view an ultrasound, and to choose to have an anesthetic or analgesic administered to the unborn child.

This act requires the physician or qualified professional to provide the woman with access to a telephone and information about rape crisis centers, domestic violence shelters and obtaining orders of protection should the physician have reason to believe the woman is being coerced into having an abortion.

This act also amends the current informed consent provision, Section 188.039, by providing that informed consent may be obtained by the physician who is to perform or induce the abortion or a qualified professional.

Notwithstanding any other provision in law allowing a person to provide services related to pregnancy, delivery and postpartum services, no person other than a licensed physician can perform or induce an abortion. Anyone violating the provision is guilty of a class B felony.

This act also modifies health insurance provisions relating to abortion. Under current law, health insurance policies are barred from providing coverage for elective abortions except through optional riders. This act extends this prohibition to health insurance policies offered through any health insurance exchange established in this state or any federal health insurance exchange administered within this state. In addition, no health insurance exchange operating within this state may offer coverage for elective abortions through the purchase of an optional rider.

HB 2010 Alternatives to Abortion funding authorized at 1.75 Million dollars, which is 90% of the current and former funding. This reduction is in keeping with the budget crisis that resulted in similar cuts to most all 'optional' state programs.

HCS HB 2081 This bill specifies that a pregnant woman may use deadly force upon another person if she reasonably believes that deadly force is necessary to protect her unborn child against death, serious physical injury, or any forcible felony.

RELIGIOUS LIBERTY

HB 1402 Exempts certain water systems that serve charitable or benevolent organizations from certain rules relating to well construction

HB 2117 Creates the crime of disturbing a worship service and creates a civil cause of action for the same behavior FAILED

SB 997 Provides that an applicant for a substitute Missouri certificate of license to teach will not be precluded from receiving a certificate solely because he or she completed the required number of semester hours of credit at a post-secondary institution for religious or theological studies. The applicant must satisfy all other requirements for the certificate. FAILED

SJR 31 & HJR 62 Proposes a constitutional amendment guaranteeing a citizen's right to pray And reaffirming citizen's right to free expression of religion FAILED

PORNOGRAPHY

SB 735 Requires public libraries to adopt policies on the placement of books and other materials that are obscene or pornographic for minors FAILED

SB 806 Allows anyone who as a child was a victim of child pornography offenses to have the Right to civilly sue any producer, promoter or possessor of such child pornography FAILED

SB 586 & SB 617 Regulates sexually oriented businesses **PASSED**

HCS/SS/SCS/SBs 586 & 617 - This act regulates sexually oriented businesses.

After August 28, 2010, no person shall establish a sexually oriented business within 1000 feet of a preexisting school, house of worship, state-licensed day care, public library, public park, residence, or other sexually oriented business.

No person shall establish a sexually oriented business if a person with an influential interest in such business has been convicted of, or released from confinement, for certain crimes within the last eight years.

This act prohibits a person from knowingly appearing nude in a sexually oriented business. No employee of such a business shall knowingly appear in a semi-nude condition, unless he or she remains on a stage at least six feet from the patrons and at least eighteen inches from the floor in a room that is at least 600 square feet. Also, such employees appearing semi-nude shall not knowingly touch a patron or the clothing of a patron.

A sexually oriented business that exhibits films, videos, or other reproductions with an emphasis on displaying specified sexual activities or specified anatomical areas must comply with the following requirements:

- 1) the operator's station must have an unobstructed view of all areas where patrons are permitted except the restroom;
- 2) the operator's station must not exceed 32 square feet;
- 3) if more than one operator's station exists, there must be an unobstructed view of each area where patrons are permitted from at least one of the operator's stations;
- 4) the view from the operator's station must be by direct line of sight;
- 5) the operator shall ensure that at least one employee is on duty in the operator's station at all times patrons are there; and
- 6) the operator and employees must ensure that view areas remain unobstructed.

Sexually oriented businesses that do not meet the requirements for stages or interior specifications on August 28, 2010, shall have 180 days to comply. During such period, any employee who appears semi-nude shall remain at least six feet from all patrons.

No sexually oriented business shall be open between the hours of midnight and 6:00 a.m and no person shall knowingly sell, use, or consume alcohol on the premises. No person shall knowingly allow a person under the age of eighteen on the premises.

In order to violate the provisions of this act, the person must have committed such acts knowingly or recklessly. An act of an employee shall be imputed to the business, only if an officer or manager knowingly or recklessly allows such act to occur on the premises. A violation of this act shall be deemed a misdemeanor punishable by a fine not to exceed \$500 or imprisonment not to exceed 90 days. Any business repeatedly operated in violation of this act shall constitute a public nuisance and shall be subject to civil abatement proceedings.

The act does not prevent political subdivisions from enacting ordinances to regulate sexually oriented businesses which are stricter but not inconsistent with the act. It also provides that political subdivisions are authorized to enact ordinances to regulate sexually oriented businesses which are stricter but not inconsistent with the act.

HOMOSEXUALITY

HB 1850 Changes the laws regarding complaints filed with the Missouri Commission on Human Rights and prohibits discrimination based upon a person's sexual orientation (LR# 3782L.011)

HCR 54 Establishes Missouri's ratification of the Equal Rights Amendment to the United States Constitution

HCR 55 Urges Congress to replace the "don't ask don't tell" policy of the United States military with a policy of nondiscrimination on the basis of sexual orientation

SB 626 Prohibits discrimination based upon a person's sexual orientation

SCR 44 Urges Congress to replace the "Don't Ask, Don't Tell" policy with a policy of nondiscrimination on the basis of sexual orientation

SCR 45 Urges Congress to continue to support the "Don't Ask, Don't Tell" policy

DRUGS & ALCOHOL

HCS#2 HB 1472 This bill changes the laws regarding the designation of controlled substances. While the bill bans the synthetic drug commonly known as K2 it also does the following:

(1) Adds the following to the list of Schedule I:

- (a) 1-pentyl-3-(1-naphthoyl)indole, commonly known as K2;
- (b) Dexanabinol,(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, commonly known as HU211;

- (c) 5-MeO-DMT or 5-methoxy-N,N-dimethyltryptamine, its isomers, salts, and salts of isomers;
- (d) Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n=4,6, or 7; and
- (e) 1-butyl-3(1-naphthoyl)indole;

(2) Adds the following to the list of Schedule II:

- (a) Any material, compound, mixture, or preparation which contains any quantity of amyl nitrite or butyl nitrate; and
- (b) Tapentadol;

(3) Adds the following to the list of Schedule III:

- (a) Boldione;
- (b) Dexoxymethyltestosterone; and
- (c) 19-nor-4,9(10)-androstadienedione;

(4) Adds Fospropofol to the list of Schedule IV;

(5) Adds the following to the list of Schedule V:

- (a) Lacosamide; and
- (b) Pregabalin; and

(6) Specifies that any person who possesses a controlled substance of more than 35 grams of Dexanabinol, (6aS, 10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n=4,6, or 7 will be guilty of a class C felony, and any person possessing less than 35 grams of any one of these substances will be guilty of a class A misdemeanor.

SS SCS HCS HB 1695, 1742 & 1674 Changes the laws regarding intoxication-related traffic offenses **PASSED**

SS SCS HCS HB 1695, 1742 & 1674 This bill changes the laws regarding intoxication-related traffic offenses. In its main provisions, the bill:

(1) Specifies that a DWI court may grant limited driving privileges to an individual who would otherwise be ineligible for the privilege. However, the DWI docket or court cannot grant a limited driving privilege to a person during his or her initial 45 days of participation (Section 302.309, RSMo);

(2) Removes the requirement that no chemical test will be given when a holder of a commercial driver's license refuses to submit to a chemical test at the request of law enforcement (Section 302.750);

(3) Allows any circuit court or the county municipal court of Jackson County to establish a DWI docket to provide an alternative for the disposition of a driving while intoxicated or driving with excessive blood alcohol content case when the person operating a motor vehicle has a blood alcohol content (BAC) of at least .15, the person has pled guilty to or has been found guilty of one or more intoxication-related traffic offense, or the person has two or more previous alcohol-related enforcement contacts. The court may assess any and all necessary costs for participation in a DWI court against the participant and all moneys received by the court will not be considered court costs, charges, or fines. A DWI court may operate in conjunction with a drug court, and a drug court commissioner may preside over a DWI court (Sections 478.001 and 478.007);

(4) Specifies that any offense involving the operation of a vehicle in an intoxicated condition will not be cognizable in municipal court if the defendant has been convicted, found guilty, or pled guilty to two or more previous intoxication-related traffic offenses or has had two or more previous alcohol-related enforcement contacts (Section 479.170);

(5) Specifies that an application or execution of a search warrant cannot be deemed invalid solely because it relied upon an electronic signature of either a law enforcement officer, prosecutor, or judge (Section 542.276);

(6) Requires each law enforcement agency, county prosecuting attorney, and municipal prosecutor to adopt a policy to report the arrest information for all intoxication-related traffic offenses to the State Highway Patrol's central repository and to certify the adoption of the policy when applying for any grants administered by the Department of Public Safety. Beginning January 1, 2011, the State Highway Patrol must maintain regular accountability reports of alcohol-related arrests, charges, and dispositions based on the data submitted (Section 577.005);

(7) Requires the course of instruction that all municipal judges must complete to include a review of state laws regarding intoxication-related offenses, jurisdictional issues related to those offenses, reporting requirements for courts, and the required assessment for offenders under the Substance Abuse Traffic Offender Program (SATOP); requires each municipal judge to adopt a written policy requiring court personnel to timely report all dispositions of all charges for intoxication-related traffic offenses to the central repository and to provide a copy of the policy to the Office of State Courts Administrator and the State Highway Patrol; and requires each municipal division of every circuit court to prepare a report every six months that includes the total number and disposition of every intoxication-related offense adjudicated, dismissed, or pending in its division and submit the report to the circuit court en banc for review and recommendations (Section 577.006);

(8) Specifies that no person who operated a motor vehicle with a BAC of .15 or more will be granted a suspended imposition of sentence and specifies that for a first offense, unless a person participates and successfully completes the requirements of a DWI court of docket, a person who operated a motor vehicle with a BAC of between .15 and .20 will be imprisoned for at least 48 hours and a person who operated a motor vehicle with a BAC of .20 or more will be imprisoned for at least five days (Sections 577.010 and 577.012);

(9) Changes the minimum imprisonment from five days to 10 days for a prior offender and from 10 days to 30 days for a persistent offender to be eligible for parole or probation unless as a condition the person performs a specified amount of community services or participates in a program established under Section 478.007 or other court-ordered treatment program. Courts may search the central repository, DWITS, or the certified driving records maintained by the Department of Revenue for prior intoxication-related traffic offenses (Sections 577.023);

(10) Removes the provision requiring an intoxication-related traffic offense arrest without a warrant to occur within 90 minutes of the alleged violation (Section 577.039);

(11) Removes the requirement that no test can be given when a person arrested or stopped for an alleged DWI refuses to submit to a chemical test at the request of a law enforcement officer (Section 577.041); and

(12) Specifies that after 10 years a court will enter an order of expungement if it determines that a person with a first alcohol-related driving offense has not been convicted of any subsequent alcohol-related driving offense, has no other subsequent alcohol-related enforcement contact, and has no other alcohol-related driving charge or enforcement action pending at the time of the hearing (Section 577.054).

GAMBLING

HCS SB 940 Modifies various provision relating to bingo and expands bingo gambling **PASSED**

HCS/SB 940 - This act changes the restrictions on different types of bingo license holders, including when they can hold bingo games and various restrictions on advertising. In addition, this act changes reporting requirements and records retention schedules for licensees.

An abbreviated bingo license holder is allowed to conduct up to 15 bingo games annually, rather than four. The act requires all licensed organizations to pay annual license fee of \$50. Current law had allowed certain organizations to pay an annual license fee of \$10.

The Gaming Commission is authorized to set the aggregate retail value of all prizes and merchandise awarded in a single day, except awards by pull-tab cards and progressive bingo games. A bingo licensee cannot require a player to purchase more than a standard pack of bingo cards in order to participate in a game. The act authorizes a licensee to conduct bingo games two days per week, rather than one day per week.

The act increases the amount that may be expended on advertising from 2% to 10% of the total amount expended from bingo receipts. The act removes a provision of law that prohibited a licensee from referencing the aggregate value of bingo prizes in an advertisement. Currently, no bingo games can be operated between midnight and 10:00 a.m. This act provides that no bingo game can be operated between 1:00 a.m. and 7:00 a.m.

Games are permitted to be conducted by electronic bingo card monitoring devices that are approved by the commission.

Every bingo licensee that conducts games on more than three occasions in any calendar year shall submit quarterly, rather than annual reports to the gaming commission.

The act requires each licensee to keep a complete record of bingo games conducted in the previous two, rather than three years, except for records stipulated as one-year retention by regulation.

Applicants for suppliers' licenses and manufacturers' licenses are required to pay for the cost of a criminal history investigation. This act would also increase the maximum amount the commission can charge for a manufacturer's license from \$1,000 to \$5,000 and would increase the possible charge for an annual renewal fee from \$500 to \$1,000.

HEALTH CARE

SS SCS HCS HB 1764 Health Care Freedom Act. Prohibits persons, employers, or health care providers from being compelled to participate in any health care system and allows certain domestic insurance companies to dissolve under certain conditions. This bill makes Missouri the first state in the nation to vote on the issue of defending private health care over a federal health care takeover. Missouri Voters will vote on this measure at the August 2, 2010 Primary Election ballot. **PASSED**

SCS/HCS/HB 1375 This modifies provisions relating to sexually transmitted diseases **PASSED**

Provides for public health policy as applied to the spread of STDs. Additionally, the bill creates a new “family friendly” paradigm in regard to controversial vaccine policy.

EXPEDITED SEXUAL PARTNER THERAPY

This act provides that any licensed physician may, but shall not be required to, utilize expedited partner therapy for the management of the sexual partners of persons with chlamydia or gonorrhea if such partners do not have an established physician-patient relationship with such physician. A licensed physician using such therapy may prescribe and dispense medications for the treatment of chlamydia or gonorrhea for such sexual partners and must provide explanation and guidance on the preventative measures that can be taken by the patient to stop the spread of the disease. Any licensed physician utilizing expedited partner therapy for the management of such partners shall have immunity from any civil liability by reason of such actions, unless such physician acts negligently, recklessly, in bad faith or with malicious purpose. The Department of Health and Senior Services and the Division of Professional Registration shall develop rules for the implementation of the act.

HPV IMMUNIZATION BROCHURE

This act requires the Department of Health and Senior Services to develop an informational brochure relating to the connection between human papillomavirus (HPV) and cervical cancer and the availability of an immunization for HPV. The department shall make the brochure available on its website and notify each school district of the availability of the brochure to be printed and included in any other materials as the school district deems appropriate. Materials made available under this act may only be distributed to parents directly and not distributed to students as material to be given to parents. Such information in the brochure shall include the risk factors for developing cervical cancer, the connection between HPV and cervical cancer, how it is transmitted and how transmission can be prevented, the latest scientific information about the immunization's effectiveness, information about the importance of pap smears, and a statement explaining that questions from parents or guardians may be answered by the family health care provider.

EDUCATION & HOME SCHOOLS

SCS HB 1892 Authorizes certain specified individuals in addition to the school superintendent to issue a student work certificate. Current law says 14 & 15 year olds must have a work permit in order to be gainfully employed under child labor standards. These “work certificates” are only provided by the public school superintendant of the school district in which the child resides. Under this bill all private and home schools may issue certificates to their own students without having to submit to the public school superintendant. **PASSED**

TAXATION

SCS HCS HB 1903 Creates the Federal Budget Stabilization Extension Fund to receive moneys from any federal job creation legislation enacted by the 111th United States Congress **PASSED**

SCS SCR 35 & 32 Disapproves the new values for agricultural and horticultural property filed with the Secretary of State's Office on December 21, 2009, by the State Tax Commission **PASSED**

GOVERNMENT ACCOUNTABILITY

HCS/SB 851 & SCS HB 1444 For any public meeting where a vote of the governing body is required on issues regarding a tax increase, eminent domain with respect to a retail development project, certain types of improvement or development districts, or tax increment financing, the governing body of such county, city, town or village must give at least four days notice before the proper notice is not given, no vote shall be taken until proper notice has been provided. Any legal challenge to the provisions of this section must be brought within thirty days of the subject meeting or such meeting shall be deemed to have been properly noticed and held. **PASSED**