

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4130H.01I
Bill No.: HB 1613
Subject: Law Enforcement Officers and Agencies; Federal - State Relations; Property, Real and Personal; Civil Procedure; Crimes and Punishment
Type: Original
Date: January 24, 2022

Bill Summary: This proposal establishes provisions relating to asset forfeiture.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Federal Funds	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)

*Oversight assumes the loss of federal forfeiture moneys will exceed \$250,000 annually.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government	Up to \$558,678	Up to \$670,425	Up to \$670,425

*Reduced seized property proceeds to police and sheriff's departments offset by gains to local school districts.

FISCAL ANALYSIS

ASSUMPTION

§513.655 – Asset forfeiture

Officials from the **Department of Public Safety, Missouri Highway Patrol (MHP)** state the MHP assumes this legislation would prohibit law enforcement from receiving any federal sharing of forfeiture assets as the federal government would now choose to retain them. This could also affect all state drug task forces, as it would significantly reduce their operating budgets. The MHP is unable to determine the dollar amount of this impact, as it cannot foresee any seizure it might have otherwise received.

Oversight is unable to determine how much impact this would have on the MHP. Therefore, Oversight will reflect a loss of unknown, greater than \$250,000 in asset seizure proceeds being returned from the federal government to the MHP.

Officials from the **St. Joseph Police Department** state their organization would lose out on any potential seized assets that would assist in further criminal apprehension.

Officials from the **Attorney General's Office**, the **Office of the State Public Defender**, the **Missouri Office of Prosecution Services**, the **Phelps County Sheriff's Department** and the **Kansas City Police Department** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight assumes the appropriate school districts would receive the proceeds of the seized property referred to in this bill. Therefore, Oversight reflect an offsetting gain to local school districts, netting the fiscal impact to political subdivisions to zero.

Oversight notes the following dollar value of dispositions by seizures as reported by the State Auditor's Office report on Compilation of 2020 Criminal Activity Forfeiture Act Seizures:

	2020	2019	2018
Pending	\$1,976,806	\$2,360,882	\$2,067,837
Returned	\$449,926	\$755,664	\$571,892
Transferred to Federal Agency	\$1,626,927	\$2,661,582	\$5,767,867
Transferred to State	\$28,437	\$73,851	\$100,915
Other	\$60,586	\$59,480	\$44,658
Disposition not reported	\$48,003	\$3,508	\$549,548
Total	\$4,190,685	\$5,914,967	\$9,102,717

Source: Office of the State Auditor's Report

The State Auditor's report states the overall dollar value for property seized in 2020 was \$4,190,685. Of that total, \$449,926 was returned, \$1,626,927 was transferred to a federal agency, and \$28,437 was transferred to the state. The disposition for \$1,976,806 was pending at the time of the report and no disposition was reported for \$48,003. There were also 502 reported seizures, of which 281 had criminal charges filed.

Oversight notes the average value of property transferred to a federal agency during the three years reported above is \$3,352,125 $((\$1,626,927 + \$2,661,582 + \$5,767,867)/3)$. Oversight notes the proposal states that no property seized under state law may be transferred to the federal government. Oversight is unsure if all of the property totaled in the Office of the State Auditor report was seized under state law. Therefore, Oversight will assume this will result in a reduction of seized property being transferred to the federal government of "up to" approximately \$3,352,125 each year and will, instead, be transferred to local school districts. Oversight understands that of the property transferred to the federal government, a portion is then transferred back to the law enforcement agency. Therefore, Oversight will reflect a loss to law enforcement of approximately \$2,681,700 $(\$3,352,125 \times 80\%)$ per year.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
FEDERAL DRUG SEIZURE FUND (0194)			
<u>Loss</u> – DPS-MHP (§513.655) Reduction in asset seizure proceeds	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)
ESTIMATED NET EFFECT ON FEDERAL DRUG SEIZURE FUND	<u>(Unknown, greater than \$250,000)</u>	<u>(Unknown, greater than \$250,000)</u>	<u>(Unknown, greater than \$250,000)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Income</u> – School Districts (§513.655) Proceeds from seized property	Up to \$2,793,438	Up to \$3,352,125	Up to \$3,352,125
<u>Loss</u> – Police and Sheriffs’ Departments (§513.655) Seized property must not be transferred to a federal agency. Therefore, local law enforcement agencies would not receive back a portion of the seized property from the federal agency	(Up to \$2,234,750)	(Up to \$2,681,700)	(Up to \$2,681,700)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Up to \$558,678</u>	<u>Up to \$670,425</u>	<u>Up to \$670,425</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill prohibits law enforcement agencies and prosecuting authorities from referring, transferring, or otherwise relinquishing possession of seized property to a federal agency for the

purpose of the property's forfeiture under federal law. Law enforcement agencies that participate in a multijurisdictional collaboration must transfer responsibility for the seized property to the state prosecuting authority. A joint task force with a federal agency may transfer seized property to the United States Department of Justice for forfeiture under federal law if the seizure includes more than \$100,000 in United States currency. A law enforcement agency is prohibited from accepting payment of any kind or distribution of forfeiture proceeds from the federal agency if the seizure did not include more than \$100,000 of United States currency.

This bill does not restrict a law enforcement agency from acting alone or collaborating with another agency, including a federal agency, to seize contraband or property a law enforcement agency has probable cause to believe is the proceeds or instrument of an offense.

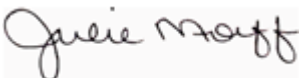
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION


Attorney General's Office
Department of Public Safety – Missouri Highway Patrol
Office of the State Public Defender
Missouri Office of Prosecution Services
Phelps County Sheriff's Department
Kansas City Police Department
St. Joseph Police Department

NOT RESPONDING

Office of the State Courts Administrator



Julie Morff
Director
January 24, 2022



Ross Strope
Assistant Director
January 24, 2022