

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4130H.03C
Bill No.: HCS for HB 1613
Subject: Law Enforcement Officers and Agencies; Federal - State Relations; Property, Real and Personal; Civil Procedure; Crimes and Punishment
Type: Original
Date: March 25, 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, possibly greater than \$250,000)	(Unknown, possibly greater than \$250,000)	(Unknown, possibly greater than \$250,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown, possibly greater than \$250,000)	(Unknown, possibly greater than \$250,000)	(Unknown, possibly 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, possibly greater than \$250,000 in asset seizure proceeds being returned from the federal government to the MHP.

Officials from the **St. Louis County Police Department** assume the proposed legislation would prohibit a state or local law enforcement agency from seizing any amount under \$50,000 and forbid a federal agency from adopting the case and/or assets. For example, if the St. Louis County Drug Task Force executes a state search warrant, seizes \$25,000, and one pound of marijuana, the law would prevent the asset from being adopted by a federal agency regardless of the future direction of the case. This becomes problematic since the proposed legislation would require processing which could cost the county thousands and offers no return on investment.

To put things into perspective, smaller seizures (e.g., \$500, \$1,000, or \$2,000) of U.S. currency that are a result of a St. Louis County state investigation have historically been seized for potential forfeiture but ultimately returned by the St. Louis County Asset Forfeiture Attorney to the suspect. Getting a turnback order on these cases is often next to impossible. Ultimately, during the forfeiture process the St. Louis County Drug Task Force makes the seizure, completes the paperwork, and submits the documentation for review to the attorney who determines if the state should seize the asset. The Task Force's Asset Forfeiture Specialist then gets notification about returning the asset and supplementing the CARE report. The hours spent on these types of cases are minimal as many are refused, and few assets are seized by the state. It is possible other jurisdictions have a court system and a prosecutor more willing to give turnback orders or allow adoption, which limits the amount of funds the state may receive directly.

Therefore, under the proposed legislation, if a minimum of \$50,000 is put on any seizure by a state agency doing so would be costly. This requirement would increase the caseload of the Asset Forfeiture Specialist, increase the number of cases sent to the St. Louis County Asset Forfeiture Attorney, and burden the judicial system with additional hearing and judgements that under current law, would not have occurred. Due to these various factors, the cost for the proposed legislation would be significant, but unknown.

Officials from the **Lake St. Louis Police Department** assume this proposal will have an extreme negative impact on law enforcement as asset forfeiture funds are used to purchase needed law enforcement equipment and other resources which fund drug task forces. This will also cause an increase in tax dollars spent in lieu of forfeited funds, negatively impacting tax payers.

In response to a previous version, officials from the **Branson Police Department (BPD)** assumed the provisions of this bill are overly restrictive and limit BPD's ability to operate. The BPD is not part of a Federal Drug Task Force so the BPD is limited and can only refer cases to the DEA. The BPD has and would like to continue to receive seizure assets from these investigations as the BPD has in the past. Federal forfeiture funds supplement the BPD's one time expenditures/capitol purchases. Removing this ability significantly impacts the BPD's ability to fund some equipment needs.

In response to a previous version, officials from the **Springfield Police Department (SPD)** assumed a negative fiscal impact. On an annual basis the SPD receives an average of \$100,000 in forfeited assets from the federal government, seized from criminals as a result of their unlawful activities, due to the SPD's participation in a variety of joint task force operations. The funds are used to support community engagement/crime prevention efforts, provide training, and purchase equipment --none of which are funded as part of the SPD's annual operating budget and therefore would not be possible.

In response to a previous version, officials from the **St. Joseph Police Department** stated 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** and the **Phelps County Sheriff's 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.

In response to a previous version, officials from the **Office of the State Courts Administrator** and the **Kansas City Police Department** each assumed 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, possibly greater than \$250,000)	(Unknown, possibly greater than \$250,000)	(Unknown, possibly greater than \$250,000)
ESTIMATED NET EFFECT ON FEDERAL DRUG SEIZURE FUND	<u>(Unknown, possibly greater than \$250,000)</u>	<u>(Unknown, possibly greater than \$250,000)</u>	<u>(Unknown, possibly 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

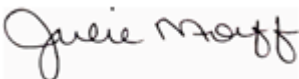
This bill prohibits law enforcement agencies and prosecuting authorities from referring, transferring, or otherwise relinquishing possession of seized property to a federal agency for the purpose of the property's forfeiture under federal law. Law enforcement agencies that participate in a multijurisdictional 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 \$50,000 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 \$50,000 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
Office of the State Courts Administrator
St. Louis County Police Department
Lake St. Louis County Police Department
Branson Police Department
Springfield Police Department
Phelps County Sheriff's Department
Kansas City Police Department
St. Joseph Police Department



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