

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5885-03
Bill No.: HB 1896
Subject: Crimes and Punishment; Telecommunications; Property, Real and Personal;
 Criminal Procedure
Type: Original
Date: April 10, 2012

Bill Summary: This proposal changes various sexual offenses involving persons less than seventeen years of age and minors.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	Less than \$100,000 to (Less than \$100,000)	Less than \$100,000 to (Less than \$100,000)	Less than \$100,000 to (Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	Less than \$100,000 to (Less than \$100,000)	Less than \$100,000 to (Less than \$100,000)	Less than \$100,000 to (Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state their Division of Drug and Crime Control (DDCC) states that during the preceding 27 months, the Computer Forensic Unit has examined computers or other devices associated with 29 sexual offender cases. Investigators spent 2,030 hours conducting these 29 examinations which comes to an average of 70 hours per case (2,030/29). This unit is currently staffed by two Sergeants and a Trooper and an average hourly salary was figured at \$28 per hour which equates to \$1,960 per case (70 x \$28). When the FY12 fringe benefit rate of 88.19% was included, the total amount per case was \$3,688 (\$1,960 + 88.19%). If the average number of cases per year (29/27 x 12) is multiplied by the total fiscal impact amount per case, the fiscal impact per year is \$47,531. DDCC believes these numbers to be on the low end as an investigator was added to the unit as a result of the merger with the Water Patrol.

The MHP assumes they could recoup roughly \$50,000 in forensic examination costs per year.

Oversight will assume an unknown amount of forensic examination expense would be recouped by both the state as well as local police and sheriffs departments. Oversight assumes the amount of recouped expenses to the state would be less than \$100,000 per year.

Officials from the **Department of Corrections (DOC)** state the penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class B felony. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY11 average of \$16.878 per offender, per day, or an annual cost of \$6,160 per inmate) or through supervision provided by the Board of Probation and Parole (FY11 average of \$5.03 per offender, per day or an annual cost of \$1,836 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

ASSUMPTION (continued)

Officials from the **Department of Public Safety - Director's Office** assume that any costs associated with this proposal could be absorbed with existing resources.

Officials from the **Office of Prosecution Services** assume the proposal will have no measurable fiscal impact on their office. The creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Officials from the **Office of the State Courts Administrator, Office of Administration,** and the **Office of the State Public Defender** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Income</u> - court allowed to order a defendant to reimburse the state or local law enforcement agency for reasonable cost incurred in the examination of seized computers, cellular telephones and other devices.	Unknown - less than \$100,000	Unknown - less than \$100,000	Unknown - less than \$100,000
<u>Costs</u> - Department of Corrections			
Incarceration / Supervision of persons convicted of offenses in the bill	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	Less than \$100,000 to (Less than \$100,000)	Less than \$100,000 to (Less than \$100,000)	Less than \$100,000 to (Less than \$100,000)

FISCAL IMPACT - Local Government

FY 2013
(10 Mo.)

FY 2014

FY 2015

**LOCAL POLICE AND SHERIFF'S
DEPARTMENTS**

Income - court allowed to order a defendant to reimburse the state or local law enforcement agency for reasonable cost incurred in the examination of seized computers, cellular telephones and other devices.

Unknown

Unknown

Unknown

**ESTIMATED NET EFFECT TO
LOCAL POLICE AND SHERIFF'S
DEPARTMENTS**

UNKNOWN

UNKNOWN

UNKNOWN

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposal changes the laws regarding sexual offenses. In its main provisions, the proposal:

- (1) Allows the court to order a defendant, upon a plea of guilty or a finding of guilt for a felony sexual offense in which a computer, cellular telephone, or other electronic devices were seized to reimburse the state or local law enforcement agency for the reasonable costs incurred in the examination of the seized items;
- (2) Specifies that computers, computer equipment, computer software and hardware, cellular telephones, or other devices capable of accessing the Internet which are used by the owner or with the owner's consent as a means for committing felonies must be forfeited to the state;
- (3) Allows, upon a court order, a law enforcement agency in possession of computers, computer equipment, computer software and hardware, cellular telephones, or other devices capable of accessing the Internet or other devices used in the acquisition, possession, or distribution of child pornography or obscene material to retain possession of the property and convert it to the use of the agency for use in criminal investigations;

RS:LR:OD

FISCAL DESCRIPTION (continued)

(4) Revises the crime of sexual misconduct involving a child to include when a person knowingly coerces or induces a child younger than 15 years of age to expose a female child's breasts for the purpose of arousing or gratifying the sexual desire of any person, including the child;

(5) Specifies that a person commits the crime of enticement of a child in second degree, a class D felony, when a person 21 years of age or older persuades, solicits, coaxes, entices, or lures whether by words, actions, or through communication via the Internet or any electronic communication, any person who is at least 15 years old but younger than 17 years old for the purpose of engaging in sexual conduct;

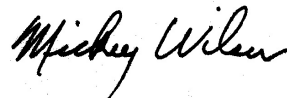
(6) Specifies that a person commits the crime of age misrepresentation, a class D felony, when he or she knowingly misrepresents his or her age to a person younger than 17 years of age or to a police officer masquerading as such in order to commit or attempt to commit a felony sexual offense under Chapter 566, RSMo, or Chapter 568; and

(7) Defines the terms "sexual conduct" and "sexual performance" as it applies to the crime of use of a child in a sexual performance, a class C felony.

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

Department of Public Safety
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Office of Administration
Department of Corrections



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Director
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