

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5043-01
Bill No.: HB 1772
Subject: Property, Real and Personal; Criminal Procedure; Civil Procedure
Type: Original
Date: April 18, 2016

Bill Summary: This proposal establishes the Asset Forfeiture Process and Private Property Protection Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Total Estimated Net Effect on General Revenue	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials at **St. Louis County** assume a cost of two additional police officer positions or \$96,512 per year. This proposal would require changes to the current state asset forfeiture process. Currently, the money and property seized does not benefit the Police Department. All proceeds are sent to the State to distribute among the schools. This proposal could affect school budgets; however, changes in the process could affect the Department fiscally.

According to the changes, an offender who had property seized through forfeiture would not have the opportunity to bond out the item. For example, if a car was seized because it was purchased through drug sales money, the offender could pay the market value price of the vehicle to retain the item. The item would then have to be returned to the offender within 3 days. The Department would possibly have to create an additional position to keep track of the items seized and their market value while making arrangements to return the property and monitor the property while it is out on bond.

The proposal also advises that once property is seized and the court has awarded the forfeiture, all interested parties would have to be contacted. In other words, all those who are owed by the offender are to be contacted and the money shall be distributed to them before being placed in the general state revenue fund. The order of the money would first be to pay for the storage of the item or the cost of the sale, not to include the officers, then the money would be applied to valid liens against the offender, restitution owed to the victim, reimbursement of investigative costs (not to include officer salary), child support obligations, claims for compensation by defendants employees, and unsecured creditors. If the Department were responsible for contacting individuals to who the defendant owes, a new position would have to be created to complete these tasks.

It is difficult to estimate an exact fiscal impact of this proposed bill however, the creation of two additional police officer positions would cost \$96,512 per year. These numbers do not include a new budget for these positions to operate from. The larger unknown affect would be the effect on the school budgets.

Officials at the **City of Independence** assume an unknown cost from this proposal. This bill has the potential to have a significant fiscal impact on local agencies. The administrative costs and manpower costs associated with asset forfeiture are extensive. Additionally, the liability associated with seizing assets is extensive. If an agency seizes a vehicle and the courts determine that it is wrongful seizure, the individual can be awarded significant damages. Nothing in the bill protects the seizing agency. Proceeds from the forfeiture all go to the State General Fund.

ASSUMPTION (continued)

Considerable time and effort must be put forth by the investigating agency with little to no return on the investment. With limited manpower resources available to law enforcement, there is not sufficient staffing for most agencies to manage an asset forfeiture program unless it is self sustaining.

Oversight assumes there could be an increase in staff relating to the asset forfeiture process. Oversight assumes there could be a decrease in the revenue received from this process which could cause a decrease in revenues distributed to the schools in the state. Oversight is unclear by how much the revenues could decrease. Therefore, Oversight will reflect cost of staff to govern the asset forfeiture process and an unknown loss to schools due to a decrease in revenues received by local political subdivisions.

Oversight also notes that section 513.750 states all remaining funds from seized property will be deposited into the state's treasury under the general revenue fund. Oversight is unclear how much this amount could be each year. Therefore, Oversight will assume \$0 to Unknown revenues from seized property proceeds.

Officials at the **Office of the State Courts Administrator**, the **Office of the State Treasurer**, the **Department of Labor and Industrial Relations**, the **Department of Corrections**, the **Department of Health and Senior Services**, the **Department of Public Safety's Missouri Highway Patrol**, the **Department of Social Services**, the **Office of the State Public Defender** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **Cole County Sheriff's Department**, the **Springfield Police Department** and the **St. Louis County Justice Services** each assume no fiscal impact to their respective entities from this proposal.

Officials at the Office of the Attorney General did not respond to **Oversight's** request for fiscal impact.

Officials at the following counties: Andrew, Atchison, Audrain, Barry, Bollinger, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Cole, Cooper, DeKalb, Dent, Franklin, Greene, Holt, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, Shelby, St. Charles, St. Francois, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for fiscal impact.

ASSUMPTION (continued)

Officials from the Boone County Sheriff Department, Buchanan County Sheriff's Department, Cass County Sheriff Department, Clark County Sheriff's Department, Columbia Police Department, Independence Police Department, Jackson County Sheriff Department, Jefferson City Police Department, Platte County Sheriff's Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Police Department and the St. Louis Metropolitan Police Department did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>Revenue</u> - Office of State Treasurer - proceeds from seized property	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> - Local Political Subdivisions - manpower hours to govern asset forfeiture in the state	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)
<u>Loss</u> - Schools - decrease in revenues received from local political subdivisions	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	(Unknown, greater than <u>\$100,000</u>)	(Unknown, greater than <u>\$100,000</u>)	(Unknown, greater than <u>\$100,000</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 creates the Asset Forfeiture Process and Private Property Protection Act. In its main provisions, the bill sets out the process governing asset forfeiture in the state. Property subject to forfeiture must be traceable to the commission of the crime for which the person is criminally convicted. The burden of proof to determine whether seized property is forfeitable is by clear and convincing evidence. This bill specifies the process for seizing assets subject to forfeiture and holding proceedings related to the seizure. A state entity having custody of seized property is required to maintain various records, specified in the bill.

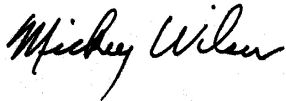
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

St. Louis County
City of Independence
Office of the State Courts Administrator
Office of the State Treasurer
Department of Labor and Industrial Relations
Department of Corrections
Department of Health and Senior Services
Department of Public Safety
 Missouri Highway Patrol
Department of Social Services
Office of the State Public Defender
Office of Prosecution Services
Cole County Sheriff's Department
Springfield Police Department
St. Louis County Justice Services

NOT RESPONDING

Office of the Attorney General



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