

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0056-12
Bill No.: SS#2 for SCS for HCS for HB Nos. 302 & 228 with SA1, SA2, SA3, & SA4
Subject: Law Enforcement Officers and Agencies; Department of Public Safety
Type: Original
Date: May 12, 2017

Bill Summary: This proposal modifies provisions relating to emergency responders.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
General Revenue	(\$1,386,360)	(\$3,393,809)	(\$5,308,719)	(\$11,410,551)
Total Estimated Net Effect on General Revenue	(\$1,386,360)	(\$3,393,809)	(\$5,308,719)	(\$11,410,551)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
DNA Profiling Fund	(\$560,573)	(\$574,223)	(\$575,004)	(\$581,534)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$560,573)	(\$574,223)	(\$575,004)	(\$581,534)

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
DNA Profiling Fund	1 FTE	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE	1 FTE

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 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
Local Government	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

Officials from the **Department of Revenue**, the **Missouri Department of Conservation**, the **Department of Health and Senior Services**, the **State Auditor's Office**, and the **Department of Transportation** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Administration - Administrative Hearing Commission (AHC)** stated they anticipate that this legislation will not significantly alter its caseload. If similar bills pass, resulting in more cases, there will be fiscal impact.

Officials from the **Office of Prosecution Services** assume no measurable impact to their office.

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of triggering a false blue alert, a new class A misdemeanor, which escalates to a class E felony if an injury or death should occur.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

§43.505 Law Enforcement

In response to similar legislation filed this year, SCS for HCS for HB 57, officials from the **Department of Public Safety - Office of the Director (DPS)** stated section 43.505 adds language that any law enforcement agency that violates this section after December 31, 2021, may be ineligible to receive state or federal funds which would otherwise be paid to such agency

ASSUMPTION (continued)

for law enforcement, safety, or criminal justice purposes. This has no fiscal impact, but a change in practice.

Officials from the **Department of Public Safety - Office of the Director** assume the costs associated with the meeting requirements for the Oversight Committee, primarily travel to/from the meetings can be absorbed within the budget for the Office of the Director. We defer to the response from the Missouri Highway Patrol for the balance of the stated needs due to this legislation.

Officials from the **Department of Transportation**, the **Missouri Lottery Commission**, the **Office of the State Courts Administrator**, the **Department of Corrections**, and the **Public Defender** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a measurable fiscal impact on their agency. 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.

In response to a similar proposal from this year (HB 228), officials from the **Springfield Police Department** and the **Boone County Sheriff's Department** each assumed the proposal would not fiscally impact their respective agencies.

Sections 57.450 & 57.530 - St. Louis City Sheriff:

Officials from the **Department of Public Safety - Office of the Director** assume this part of the proposal would not fiscally impact their agency.

Officials from the **City of St. Louis** did not respond to our request for fiscal impact.

Oversight assumes these sections could create additional expenses to the City of St. Louis.

§84.514 - Kansas City Police Department homeland security:

In response to a previous version, officials at the **Kansas City Police Department (KCPD)** assumed the addition of a sixth Lieutenant Colonel for homeland security would be created from existing staffing levels. The cost to promote someone to this new position would be \$48,794 (\$48,096 salary and \$698 Medicare) once the ripple effect through the ranks is accounted for. The 10% referred to in Chapter 84.510 has to do with additional compensation such as incentive

ASSUMPTION (continued)

pay (shift differential, bi-lingual pay) and college pay. Benefits such as health insurance, pensions, and workers' compensation are not covered by this section.

The KCPD would not be increasing its staffing, therefore the cost to the Police Department would be the difference in salary of a topped out Officer and salary of a Lieutenant Colonel. This assumes the trickle down effect of promotions. The only benefit affected is Medicare (1.45%) associated with salary, other benefits would not be effected by the change in ranks.

Oversight assumes KCPD will create the position of Lieutenant Colonel from existing staff and will have no additional cost from benefits (excluding medicare) since existing benefits will transfer to the new position. Therefore, Oversight will reflect a \$0 or the cost of the position for each fiscal year for this proposal.

Officials at the **City of Kansas City** assume no fiscal impact from this proposal.

Various criminal offense changes:

In response to a similar version (0056-11) of this proposal officials from the **Department of Corrections (DOC)** stated contains parts of previous FY17 FN 0056 series bills, all of which have no impact. Additionally, many of the sections of FY17 FN 0525-05N are included in FN 0056-11N, which has the same total impact as FN 0525-05N. Therefore, below is the response given for FN 0525-05N and is the same as for FN 0056-11N.

Response for FY17 FN 0525-05N:

Modifies provisions relating to certain crimes against emergency service providers and creates the Blue Alert System.

This version is similar to 0525-03 and broadens the special victims to include firefighters and emergency medical service providers. This version has the same impact as 525-03 which is below, but it also has an unknown impact as well. We have no measurable data to predict the impact of adding firefighters and emergency medical service providers to the special victims' classification, but we would expect there to be an increase in the number of people charged under this bill. This unknown impact would be added to the impact for FN 0525-03 below.

This version eliminates voluntary and involuntary manslaughter provisions pertaining to law enforcement officers. If a law enforcement officer is the victim in assault 1st, 2nd, 3rd, 4th and resisting arrest offenses, offenders found guilty cannot be eligible for probation or parole.

ASSUMPTION (continued)

Conditional release terms, as prescribed in RSMo 558.011, would apply. It is worth noting that this population prediction can be impacted by the courts with the latitude provided them in conditional release cases. The statute states that in cases of class D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or the court can impose a sentence of imprisonment for a term longer than one year and shall commit the person to the custody of the department of corrections, in which the terms of conditional release would apply.

Assault 1st and 2nd are dangerous felonies in which the offenders would serve 100% of the sentence because they are excluded from the provisions of conditional release. Assault 4th is a class A misdemeanor with a term less than one year and, because of the incarceration requirements would not be supervised by the Department of Corrections.

The department uses new prison admissions in FY16 to estimate the number of offenders who will be impacted by the proposed sentencing changes and the time served by offenders released in FY16 to estimate the prison time served. While most prison time is served to first release many parolees are revoked and re-incarcerated. The department has estimated based upon an analysis of sentences discharged in FY16 that 42% of the time from first release to the discharge of the sentence is spent in prison. This time is added to the time to first release.

A difficulty the department has in estimating the impact of changes to the sentencing of assault offenses for the fiscal impact is that the criminal code revision that was enacted on January 1, 2017 included a major revision to the assault statutes by creating four degrees of assault. There has been no sentencing of offenders under these new statutes so the department is assuming an equivalency between the old offense of assault 1st degree of a law enforcement officer (LEO) and the new offense of assault 1st degree against a special victim and similarly for assault 2nd degree. The new offense of assault 3rd degree is approximated by the offenders the department received for misdemeanor probation.

For assault 1st (LEO), 5 offenders were admitted to serve a term sentence and 2 received probation in FY16. The term admissions serve 62% of an average 17 year sentence. As dangerous felons, the 5 term sentences would do an additional 38% and the two probation cases serve 100% of the sentence because all would be excluded from conditional release.

For assault 2nd (LEO), 69 offenders were admitted to serve a term sentence, 32 were 120 day admissions, and 96 received probation in FY16. The term sentence group could expect to serve 52% of an 8 year sentence in prison. As dangerous felons, they would be excluded from conditional release and have to serve 100% of the sentence in prison or an additional 3.9 years.

ASSUMPTION (continued)

The other 128 120 Day/probation cases would get term sentences and would serve the entire prison sentence.

The 20 new admissions for assault 3rd were probation cases in FY16. This group would now serve 67% of an average 3.5 year sentence or 2.3 years before release. And 42% of the releases can expect to become parole returns.

Finally, in FY16 there were 95 term sentences for resisting arrest, 34 received 120 Day and 248 received probation. The term sentence group could expect to serve 31% of an average 4.2 year sentence. These individuals will now serve 67% or 1.5 additional years in prison. The 282 120 Day/probation cases would all serve 67% of the sentence. And 42% of the releases can expect to become parole returns.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

	# to prison	Cost per year	Total Costs for prison	# to probation	Cost per year	Total savings for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	432	(\$6,085)	(\$2,628,720)	(432)	(\$2,234)	\$965,088	(\$1,386,360)
Year 2	864	(\$6,085)	(\$5,257,440)	(864)	(\$2,234)	\$1,930,176	(\$3,393,809)
Year 3	1,325	(\$6,085)	(\$8,062,625)	(1,325)	(\$2,234)	\$2,960,050	(\$5,308,719)
Year 4	1,618	(\$6,085)	(\$9,845,530)	(1,506)	(\$2,234)	\$3,364,404	(\$6,877,823)
Year 5	1,748	(\$6,085)	(\$10,636,580)	(1,636)	(\$2,234)	\$3,654,824	(\$7,557,277)
Year 6	1,878	(\$6,085)	(\$11,427,630)	(1,638)	(\$2,234)	\$3,659,292	(\$8,576,873)
Year 7	2,008	(\$6,085)	(\$12,218,680)	(1,640)	(\$2,234)	\$3,663,760	(\$9,634,229)
Year 8	2,187	(\$6,085)	(\$13,307,895)	(1,690)	(\$2,234)	\$3,775,460	(\$10,949,771)
Year 9	2,189	(\$6,085)	(\$13,320,065)	(1,692)	(\$2,234)	\$3,779,928	(\$11,177,791)
Year 10	2,191	(\$6,085)	(\$13,332,235)	(1,694)	(\$2,234)	\$3,784,396	(\$11,410,551)

Oversight notes that Senate Amendment 4 may impact DOC's response; however, due to time constraints DOC was not able to provide an updated response. Therefore, Oversight will utilize DOC's response to a similar version (0056-11).

ASSUMPTION (continued)

§650.055 DNA Profiling

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state the proposed legislation would require every individual who is 17 years or older and is arrested for a felony offense to provide a biological sample for DNA profiling.

The Crime Laboratory Division estimates that this proposal could potentially result in the collection of an additional 33,089 DNA samples, which is more than double the number of samples currently being processed annually. These calculations are based on the 2015 Missouri State Highway Patrol Criminal Justice Information Services (CJIS) arrest statistics and the Crime Laboratory Division (CLD) 2015 arrestee offender sample intake. Current statutorily eligible arrestee samples received in 2015 were subtracted from the number of projected arrests from this proposal. This subtraction is believed to prevent duplication in sample count.

In 2009, the General Assembly passed HB 152 which expanded the DNA collection program to include persons arrested only for a felony under chapters 565, 566, and 569 RSMo. Currently, the Patrol is receiving approximately 50 percent of the predicted samples. To properly implement this proposal under the assumption that 50 percent or 16,545 (33,089/2) of the samples will be submitted each year, the Patrol laboratory would need one additional FTE and additional funding for collection kits, reagents, and consumables. FTE needs and cost calculations are based on the unit's present processing capacity and operational costs.

1 Criminalist I (\$1,716 x 24) \$41,184

This FTE would assist in the receipt, acceptance, tracking and storage of all samples; data entry, maintain equipment and supplies; expungement process; sample preparation for analysis; provide training; and advise and support law enforcement agencies.

The cost estimate for offender DNA collection kits, consumables, and reagent for sample processing and analysis is \$496,185 (\$29.99 x 16,545).

The MHP assumes the costs from this proposal would be from the state's DNA Profiling Fund.

In response to similar legislation filed this year, SB 204, according to a report from the **Office of the State Treasurer**, the balance of the DNA Profiling Fund (0772) on April 30, 2017 was \$3,094,784.

ASSUMPTION (continued)

Officials from the **Department of Corrections**, the **Office of Prosecution Services**, and the **Department of Mental Health** each assume the proposal would not fiscally impact their respective agencies.

In response to similar legislation filed this year, SB 204, officials from the **Boone County Sheriff's Department** assumed the proposal would not fiscally impact their agency.

In response to similar legislation filed this year, SB 204, officials from the **Cole County Sheriff's Department** assumed minimal fiscal impact from the proposal.

In response to similar legislation filed this year, SB 204, officials from the **Attorney General's Office** assumed that any potential costs arising from this proposal could be absorbed with existing resources.

§650.520 Blue Alert

Officials at the **Department of Public Safety's Office of the Director** defers to the Missouri Highway Patrol for fiscal impact.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)**, the **Department of Transportation**, the **Office of Prosecution Services** and the **Department of Corrections** each assume there is no fiscal impact from this proposal to their respective agencies.

In response to the previous version, officials from the **Missouri Lottery Commission**, the **Office of the State Courts Administrator**, and the **Office of the State Public Defender**, each assumed the proposal would not fiscally impact their respective agencies.

In response to a similar proposal from this year (HB 228), officials from the **Springfield Police Department** and the **Boone County Sheriff's Department** each assumed the proposal would not fiscally impact their respective agencies.

Senate Amendment # 1

In response to a similar proposal from this year (HB 697), officials from the **Department of Public Safety - Missouri Highway Patrol** assumed this proposal would not fiscally impact their agency.

ASSUMPTION (continued)

In response to a similar proposal from this year (HB 697), from the City of St. Louis, St. Louis County, and the St. Louis Metropolitan Police Department did not respond to **Oversight's** request for fiscal impact.

Senate Amendment # 2

Oversight assumes no fiscal impact.

Senate Amendment # 3

Oversight assumes no fiscal impact.

Senate Amendment #4

Oversight assumes this could impact DOC's response; however, due to time constraints, DOC could not provide an updated response.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
 GENERAL REVENUE FUND				
<u>Costs - DOC - increased incarceration / reduced supervision net expenses</u>	<u>(\$1,386,360)</u>	<u>(\$3,393,809)</u>	<u>(\$5,308,719)</u>	<u>(\$11,410,551)</u>
 ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	 <u>(\$1,386,360)</u>	 <u>(\$3,393,809)</u>	 <u>(\$5,308,719)</u>	 <u>(\$11,410,551)</u>

<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
 DNA PROFILING FUND				
Costs - MHP				
Personal Service	(\$34,320)	(\$41,596)	(\$42,012)	(\$45,492)
Fringe Benefits	(\$30,068)	(\$36,442)	(\$36,807)	(\$39,857)
DNA Collection				
Kits (16,545 x \$30)	<u>(\$496,185)</u>	<u>(\$496,185)</u>	<u>(\$496,185)</u>	<u>(\$496,185)</u>
Total Costs - MHP	(\$560,573)	(\$574,223)	(\$575,004)	(\$581,534)
FTE Change MHP	1 FTE	1 FTE	1 FTE	1 FTE
 ESTIMATED NET EFFECT TO THE DNA PROFILING FUND				
	<u>(\$560,573)</u>	<u>(\$574,223)</u>	<u>(\$575,004)</u>	<u>(\$581,534)</u>
 Estimated Net FTE Change for DNA Profiling Fund				
	1 FTE	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
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**LOCAL
 POLITICAL
 SUBDIVISIONS**

<u>Costs - Peace officer training costs for City of St. Louis Sheriff's Office §§57.450, 57.530</u>	(Unknown)	(Unknown)	(Unknown)	(Unknown)
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<u>Cost - Kansas City Funds - for Lieutenant Colonel position (§84.514)</u>				
Salary	\$0 or (\$48,096)	\$0 or (\$48,096)	\$0 or (\$48,096)	\$0 or (\$48,096)
Fringe Benefits (Medicare Only)	\$0 or (\$698)	\$0 or (\$698)	\$0 or (\$698)	\$0 or (\$698)
Total Costs	\$0 or (\$48,794)	\$0 or (\$48,794)	\$0 or (\$48,794)	\$0 or (\$48,794)

<u>Revenue - Law Enforcement in St. Louis County allowed to charge a fee (§488.5320)</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
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FISCAL IMPACT - Small Business

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

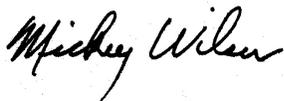
FISCAL DESCRIPTION

The proposed legislation changes provisions relating to emergency responders.

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 Revenue
Missouri Department of Conservation
Department of Health and Senior Services
Office of the State Auditor
Department of Transportation
Office of Administration
Office of the State Public Defender
Office of Prosecution Services
Department of Public Safety
Missouri Lottery Commission
Office of the State Courts Administrator
Department of Corrections



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