

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3474H.011
 Bill No.: HB 1619
 Subject: Aircraft and Airports; Search and Seizure; State Departments; Political Subdivisions; Law Enforcement Officers and Agencies; Property, Real and Personal
 Type: Original
 Date: January 11, 2022

Bill Summary: This proposal prohibits the use of a drone or unmanned aircraft to photograph, film, videotape, create an image, or livestream another person or personal property of another person, with exceptions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue*	Could exceed (\$6,879)	Could exceed (\$16,840)	Could exceed (\$17,177)
Total Estimated Net Effect on General Revenue	Could exceed (\$6,879)	Could exceed (\$16,840)	Could exceed (\$17,177)

*Oversight assumes the potential fiscal impact of this bill would not reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
State Legal Expense Fund (0692)*	\$0	\$0	\$0
Colleges and Universities	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Transfer-In and expenses net to zero. Oversight assumes the potential fiscal impact of this bill would not reach the \$250,000 threshold.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

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	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§542.530 – Use of drones or unmanned aircrafts

Officials from the **Department of Corrections (DOC)** state this proposal prohibits the use of a drone or unmanned aircraft to photograph, film, videotape, create an image, or livestream another person or personal property of another person. Section 542.530 creates the offense of the creation of an image of personal property using a drone or unmanned aircraft as a class A misdemeanor. The bill also creates the offense of the transmission and dissemination of the image as a class E felony.

DOC states misdemeanors do not fall under the purview of DOC; therefore, there is no expected impact on the department.

For each new nonviolent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2025.

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	1	(\$8,255)	(\$6,879)	2	absorbed	\$0	(\$6,879)
Year 2	2	(\$8,255)	(\$16,840)	4	absorbed	\$0	(\$16,840)
Year 3	2	(\$8,255)	(\$17,177)	7	absorbed	\$0	(\$17,177)
Year 4	2	(\$8,255)	(\$17,521)	7	absorbed	\$0	(\$17,521)
Year 5	2	(\$8,255)	(\$17,871)	7	absorbed	\$0	(\$17,871)
Year 6	2	(\$8,255)	(\$18,228)	7	absorbed	\$0	(\$18,228)
Year 7	2	(\$8,255)	(\$18,593)	7	absorbed	\$0	(\$18,593)
Year 8	2	(\$8,255)	(\$18,965)	7	absorbed	\$0	(\$18,965)
Year 9	2	(\$8,255)	(\$19,344)	7	absorbed	\$0	(\$19,344)
Year 10	2	(\$8,255)	(\$19,731)	7	absorbed	\$0	(\$19,731)

If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$22.616 per day or an annual cost of \$8,255 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$88.12 per day or an annual cost of \$32,162 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

Officials from the **Office of Administration (OA)** state this proposal has the potential to increase costs to the state Legal Expense Fund (LEF) for actions alleging violation by a state employee in connection with their official duties on behalf of the state. The amount of the potential costs resulting from this proposal cannot be reasonably estimated as this language creates new legal standards, subject to judicial interpretation, and there is no readily available information that could assist in forming a rational basis for estimating costs. In addition, the number of potential claims, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state LEF, Section 105.711 RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

Oversight does not have any information contrary to that provided by OA. Therefore, Oversight will reflect OA's potential unknown impact for fiscal note purposes to the State Legal Expense Fund. Oversight notes the Legal Expense Fund is funded by the General Revenue Fund as well as other state funds. Oversight notes this possible litigation exposure as described by OA could also apply to colleges and universities as well as local political subdivisions.

Officials from the **Office of Administration - Budget and Planning (B&P)** state subsection 542.530.7 includes new felony and misdemeanor provisions related to the use of drones or unmanned aircraft. To the extent any related fines or penalties are deposited in the state treasury, TSR may be impacted.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The enactment of a new crime (542.530.7) creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

Officials from the **Attorney General's Office, the Department of Commerce and Insurance, the Department of Economic Development, the Department of Elementary and Secondary Education, the Department of Higher Education and Workforce Development, the Department of Health and Senior Services, the Department of Mental Health, the Department of Natural Resources, the Department of Labor and Industrial Relations, the Department of Revenue, the Department of Public Safety (Office of the Director, Capitol Police, Alcohol & Tobacco Control, Fire Safety, Gaming Commission, Missouri Highway Patrol, Missouri National Guard, State Emergency Management Agency and Veterans Commission), the Office of the Governor, the Joint Committee on Administrative Rules, the Joint Committee on Public Employee Retirement, the Joint Committee on Education, the Missouri Lottery Commission, the Missouri Consolidated Health Care Plan, the Missouri Higher Education Loan Authority (MOHELA), the MoDOT & Patrol Employees' Retirement System, the Petroleum Storage Tank Insurance Fund, the Department of Agriculture, the Missouri Department of Conservation, the Missouri Ethics Commission, the Missouri House of Representatives, the Department of Transportation, the Office of Administration (Administrative Hearing Commission), the Office of the State Courts**

Administrator, the Office of the State Auditor, the Missouri Senate, the Office of the State Public Defender, the Office of the State Treasurer and the State Tax Commission, Missouri State University, Northwest Missouri State University, the Missouri State Employees Retirement System, Legislative Research, Oversight Division, the City of Kansas City, the City of Springfield, the St. Louis County Police Department, and the Phelps County Sheriff's Department each assume the proposal will have no fiscal impact on their respective organizations for this proposal.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Officials from the **University of Missouri** and the **University of Central Missouri** state an indeterminate fiscal impact.

Officials from the **Department of Social Services** defer to the **Office of Administration** for the potential fiscal impact of this proposal.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties, police and sheriff's departments, schools, and colleges and universities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
<u>Transfer Out – to the State Legal Expense Fund – OA (§542.530) Potential increase in litigation</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost – DOC (§542.530) Increased incarceration costs</u>	(\$6,879)	(\$16,840)	(\$17,177)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Could exceed</u> <u>(\$6,879)</u>	<u>Could exceed</u> <u>(\$16,840)</u>	<u>Could exceed</u> <u>(\$17,177)</u>
<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
STATE LEGAL EXPENSE FUND (0692)			
<u>Transfer In – from General Revenue</u>	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost – OA (§542.530) Potential increase in litigation</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON THE STATE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
COLLEGES AND UNIVERSITIES			
<u>Cost - OA (§542.530) Potential increase in litigation</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost - OA (\$542.530) Potential increase in litigation</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</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 an employee of a state agency or political subdivision, or any other person, from using a drone or unmanned aircraft over private property to photograph, film, create an image or livestream the property without the consent of the property owner unless he or she has a search warrant or if it is a case involving state or national emergency, state or national security, or a missing person.

This bill prohibits any person from using a drone or unmanned aircraft to photograph, film, videotape, or otherwise create an image of another person without the person's consent unless he or she is providing assistance to a law enforcement agency in cases involving state or national emergency, state or national security, or a missing person.

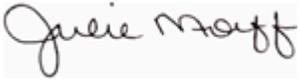
Any person in violation of these provisions will be guilty of a class A misdemeanor unless the person who created the image distributes the image to another person or transmits the image in a manner that allows access via computer or the person who created the image disseminates or permits dissemination by any means, in which case the person will be guilty of a class E 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

Attorney General's Office
Department of Commerce and Insurance
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Public Safety
Department of Social Services
Office of the Governor
Joint Committee on Public Employee Retirement
Joint Committee on Administrative Rules
Missouri Lottery Commission
Legislative Research
Oversight Division
Local Government Employees Retirement System
Missouri Consolidated Health Care Plan
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri Higher Education Loan Authority
Missouri House of Representatives
Missouri Department of Transportation
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Missouri Office of Prosecution Services
Office of Administration
Facilities Management, Design and Construction
Office of the State Courts Administrator
Office of the State Auditor
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
Office of the State Treasurer
Public Schools and Education Employee Retirement Systems
State Tax Commission

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