

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1256H.01I  
Bill No.: HB 401  
Subject: Law Enforcement Officers and Agencies; Aircraft and Airports; Agriculture;  
Animals; Property, Real and Personal  
Type: Original  
Date: January 29, 2023

---

Bill Summary: This proposal establishes the Preserving Freedom From Unwarranted Surveillance Act.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
General Revenue*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on General Revenue*</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

\*Oversight does not have any other information to suggest that the civil judgements resulting from this proposal would go over the \$250,000 threshold at this time. Therefore, Oversight will assume the fund above will not hit the threshold from this proposal.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Legal Expense Fund***	\$0	\$0	\$0
Other State and federal funds**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds**/**</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

Numbers within parentheses: () indicate costs or losses.

\*\*Oversight does not have any other information to suggest that the civil judgements resulting from this proposal would go over the \$250,000 threshold at this time. Therefore, Oversight will assume the funds above will not hit the threshold from this proposal.

\*\*\*Income less cost distributions net to zero.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Various – transfer to Legal Expense Fund**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

\*Oversight does not have any other information to suggest that the civil judgements resulting from this proposal would go over the \$250,000 threshold at this time. Therefore, Oversight will assume the fund above will not hit the threshold from this proposal.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- ☐ 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Local Government</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Missouri Highway Patrol (MHP)** assume the waiver of sovereign immunity for Patrol personnel could result in significant financial exposure at trial. Due to the varied nature of unmanned aircraft operation, the fiscal impact to the Patrol would be unknown.

Officials from the **Office of Administration (OA)** assume §§305.635 to 305.641 prohibits drones from being used to "conduct surveillance or observation" of any individual. This legislation has the potential to increase costs to the state Legal Expense Fund (LEF) for actions alleging a violation of these sections against a state agency or state employee in connection with their official duties on behalf of the state. §305.641.1 states that any aggrieved party may obtain all appropriate relief to prevent or remedy a violation, and under §305.641.3 sovereign immunity for the state is waived. Potential costs to the state are unknown.

The state self-assumes its own liability under the LEF, §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** notes that the proposal makes local political subdivisions and colleges and universities subject to civil suits and therefore, Oversight will reflect possible costs to all state funds (including federal funds for transfers to the LEF). Oversight also notes that the LEF does not cover costs for local political subdivisions or colleges and universities in most cases.

Officials from the **Attorney General's Office, the Office of Administration - Administrative Hearing Commission, the Department of Commerce and Insurance, the Department of Higher Education and Workforce Development, the Department of Natural Resources, the Department of Corrections, the Department of Labor and Industrial Relations, the Department of Public Safety's (Capitol Police, Fire Safety, Office of the Director, Missouri National Guard, Missouri Veterans Commission and State Emergency Management Agency), the Missouri Department of Agriculture, the Missouri Department of Conservation, the Missouri Department of Transportation, the City of Kansas City, the City of Springfield, the Phelps County Sheriff's Office, the Kansas City Police Department, the St. Joseph Police Department, the St. Louis County Police Department, the Fruitland Area Fire Protection District, the University of Central Missouri, Missouri Western State University, St. Charles Community College, the Office of the State Courts Administrator and the State Tax Commission** 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.

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, local law enforcement agencies, fire protection districts and colleges and universities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>GENERAL REVENUE</b>			
<u>Cost</u> – MHP and other state agencies – potential contributions to Legal Expense Fund to pay judgements from civil suits from litigants	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>OTHER STATE FUNDS</b>			
<u>Cost</u> – Transfers to Legal Expense Fund to pay for successful civil suits from litigants	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>LEGAL EXPENSE FUND</b>			
<u>Income</u> – Transfers ins to cover costs of payouts from civil suits won by litigants	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> – All State Agencies – potential increase of payouts from civil suits won by litigants claiming violation of §§305.635 to 305.641	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE LEGAL EXPENSE FUND</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – State Government</u> <u>(continued)</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>FEDERAL FUNDS</b>			
<u>Cost – Transfers to Legal Expense Fund to pay for successful civil suits from litigants</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0 to</u> <u>(Unknown)</u></b>	<b><u>\$0 to</u> <u>(Unknown)</u></b>	<b><u>\$0 to</u> <u>(Unknown)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost – LPS - potential increase of payouts from civil suits won by litigants claiming violation of §§305.635 to 305.641</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>\$0 to</u> <u>(Unknown)</u></b>	<b><u>\$0 to</u> <u>(Unknown)</u></b>	<b><u>\$0 to</u> <u>(Unknown)</u></b>

FISCAL IMPACT – Small Business

This proposal should not fiscally impact small businesses.

FISCAL DESCRIPTION

This bill establishes the "Preserving Freedom from Unwarranted Surveillance Act" that prohibits any person, entity, or state agency or county or municipal law enforcement agency from using a drone or other unmanned aircraft to gather evidence or other information relating to criminal conduct or conduct in violation of a statute or regulation except to the extent authorized in a warrant. A law enforcement agency may use a drone or unmanned aircraft without obtaining a warrant in emergency situations if there is an imminent threat to life or of great bodily harm. A person, entity, or state agency cannot use a drone or unmanned aircraft to conduct surveillance or observation of an individual, property owned by an individual, farm, facility engaged in the creation of fuel from agricultural products, or agricultural industry without the consent of the

individual, property owner, farm, facility, or agricultural industry except to the extent authorized in a warrant.

The bill does not prohibit the use of a manned aircraft, drone, or unmanned aircraft by a state law enforcement agency or any county or municipal law enforcement agency in the state to the extent authorized in a warrant; a Missouri-based higher education institution conducting specified educational, research, or training programs; a manufacturer or seller engaged in the research, development, or testing of a manned aircraft, drone, or unmanned aircraft and operating a manned aircraft, drone, or unmanned aircraft under specified situations; any real estate broker acting in connection with the marketing, sale, or financing of any real property; any branch of the United States Armed Forces or the National Guard; or any professional engaged in surveying, mapping, or engineering. The bill does not prohibit the use of a model aircraft.

Any aggrieved party may obtain relief in a civil action to prevent or remedy a violation of the Act. Information obtained or collected in violation of the Act cannot be admissible as evidence in a criminal proceeding or in an administrative hearing. Sovereign immunity for the state is waived for any civil action resulting from a violation of the provisions of the Act.

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

Missouri Highway Patrol  
Attorney General's Office  
Office of Administration  
    Administrative Hearing Commission  
Department of Commerce and Insurance  
Department of Higher Education and Workforce Development  
Department of Natural Resources  
Department of Corrections  
Department of Labor and Industrial Relations  
Department of Public Safety  
    Capitol Police  
    Fire Safety  
    Office of the Director  
    Missouri National Guard  
    Missouri Veterans Commission  
    State Emergency Management Agency  
Missouri Department of Agriculture  
Missouri Department of Conservation  
Missouri Department of Transportation  
City of Kansas City  
City of Springfield

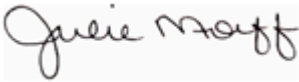
L.R. No. 1256H.01I

Bill No. HB 401

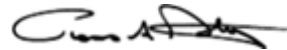
Page **7** of **7**

January 29, 2023

Phelps County Sheriff's Office  
Kansas City Police Department  
St. Joseph Police Department  
St. Louis County Police Department  
Fruitland Area Fire Protection District  
University of Central Missouri  
Missouri Western State University  
St. Charles Community College  
Office of the State Courts Administrator  
State Tax Commission



Julie Morff  
Director  
January 29, 2023



Ross Strobe  
Assistant Director  
January 29, 2023