

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0053-02
Bill No.: SCS for SBs 23 & 51
Subject: Crimes and Punishment; Consumer Protection
Type: Original
Date: March 16, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Director’s Office** and the – **Missouri State Highway Patrol** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of State Public Defender (SPD)** assume existing staff could provide representation for those few cases arising where indigent persons were charged with the criminal use of property by operating audiovisual recording devices. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume this proposal creates the criminal use of property by operating audiovisual recording devices while in a movie and enhances the crime of theft of cable television service, punishable by up to a class C felony.

Currently, the DOC cannot predict the number of new commitments which may result from the enhancement 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 operational cost either through incarceration (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, DOC assumes the impact would be less than \$100,000 per year for their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation would provide that for certain offenses involving unauthorized recordings the penalty is a fine of not more than \$50,000 or a prison sentence of not more than five years if the offense involves 100 or more articles. Under current law, such a penalty is applicable to offenses involving 1,000 or more articles.

The proposed legislation would change the crime of theft of cable television service to include when a person knowingly attempts to connect to, tamper with, or otherwise interfere with any cable television signal, cables, wires, devices, or equipment which is used for the distribution of cable television and which results in the unauthorized use of a cable television system or the disruption of the cable television service. This violation would be a class C felony.

The proposed legislation would also create the offense of criminal use of real property through the misuse of audiovisual recording devices. A person who would knowingly operate the audiovisual recording function of a device at a movie without proper consent from certain individuals is guilty of criminal use of real property.

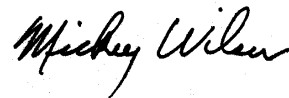
The proposal would not prohibit law enforcement from operating audiovisual recording devices during the course of their authorized activities. The owner, authorized agent, or employee who alerts law enforcement authorities would not be liable in any civil action arising out of detaining a person believed to have violated this section, unless the plaintiff can show that such measures were unreasonable or the period of detention was unreasonably long.

The proposal would make criminal use of real property pursuant to this section a class A misdemeanor unless it is a second or subsequent offense, in which case it would be a class D 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

Office of State Courts Administrator
Department of Corrections
Department of Public Safety
 – Director’s Office
 – Missouri State Highway Patrol
Office of Prosecution Services
Office of State Public Defender



Mickey Wilson, CPA
Director
March 16, 2005