

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3083-06
Bill No.: SCS for SBs 588, 557, 579, 563, 869, 619, 570, 753, 764, 782, 783, & 890
Subject: Crimes and Punishment; Law Enforcement Agencies and Officers; Department of Corrections; Highway Patrol
Type: Original
Date: February 13, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(Less than \$489,928)	(Less than \$1,034,773)	(Less than \$1,691,564)
Total Estimated Net Effect on General Revenue Fund	(Less than \$489,928)	(Less than \$1,034,773)	(Less than \$1,691,564)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
State School Moneys	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Offsetting savings and losses to State School Moneys Fund in FY 2008 and FY 2009.

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 21 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Federal	(\$68,541)	(\$46,696)	(\$47,889)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$68,541)	(\$46,696)	(\$47,889)

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	(More than \$100,000) to Unknown	(More than \$100,000)	(More than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health, Department of Health and Senior Services, Department of Public Safety – Director’s Office, Boone County Sheriff’s Department, Springfield Police Department, Kansas City Public Schools, and Parkway Public Schools** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would increase the penalties and terms of imprisonment for certain sex offenses and create several new offenses. CTS would not anticipate these provision to have a fiscal impact on the judiciary.

CTS assumes the legislation would also permit certain sex offenders to petition the court to have their name removed from the sex offender registry. CTS has no way of determining how many sex offenders might avail themselves of this procedure. CTS assumes there may be some, unknown, impact on the workload of the courts. CTS would not anticipate fiscal impact in excess of \$100,000.

ASSUMPTION (continued)

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the provisions in Section 43.533 would have a fiscal impact on their agency. The MHP's Criminal Records and Identification Division estimate that approximately 1,800 incoming phone calls would be received per month. Based on 1,800 incoming calls per month, the annual cost per year for the phone service and anticipated postage is as follows:

21,600 (1,800 x 12 months) x .06 cents a minute	=	\$1,296
21,600 (1,800 x 12 months) x .37 per envelope	=	\$7,992
Annual cost for 800 number (\$17 per month x 12)	=	<u>\$204</u>
		\$9,492 (recurring)

These costs are based on estimates. Since the actual fiscal impact will be determined by the public's use of the 800 number, there is no way to calculate exact costs. MHP estimates the costs to be less than \$15,000 per year. If the public's response is greater than anticipated, additional costs will be incurred.

Officials from the **Office of the Secretary of State (SOS)** assume 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 proposal for Administrative Rules is less than \$1,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume the proposal modifies laws regarding sexual offenders. DOC has the following assumptions on the portions of this bill to have potential fiscal impact:

§§217.735 and 559.106 – Life time supervision of certain sex offenders

The proposal removes the victim age limitation of less than 14 and the requirement that the offender have a prior sex offense conviction. The offense list is unchanged: Forcible Rape, Statutory Rape 1st, Forcible Sodomy, and Statutory Sodomy 1st; however, the modification will significantly increase in time the number of offenders that will require lifetime supervision for offenses committed after August 28, 2006. Lifetime time supervision applies to probation and term sentences.

In FY05 there were 51 probation openings for the listed offenses who would begin lifetime monitoring. Prison releases would not begin until after 12 years (average time served) and would be about 200 per year. New probations are not expected to increase and may decrease with enhanced sentencing. After 10 years the number of offenders on lifetime GPS monitoring is expected to be 510. After a further 10 years the total number is expected to be 2,800 and will max at over 5,000.

As the average age at the start of supervision of probationers is 30 and the average age of prison releases is 41 the period of lifetime supervision will be at least 20 years. The statute allows offenders 65 years or older to be released from lifetime electronic monitoring.

DOC calculates the GPS impact as follows: FY07 – 51; FY08 – 102; FY09 – 153; FY10 – 204; FY11 – 255; FY12 – 306; FY13 – 357; FY14 – 408; FY15 – 459; FY16 – 510.

§566.030 – Forcible Rape

The proposal increases the penalty to life incarceration and no parole until 25 years when the victim is less than 12. It also makes statutory rape 1st when the victim is under 12 yrs forcible rape. The impact assessment is based upon the estimated number of offenses for forcible rape and statutory rape 1st when the victim is under 12.

§566.060 – Forcible Sodomy

The proposal mandates the same penalty as for forcible rape when the victim is under 12.

ASSUMPTION (continued)

§566.032 – Statutory Rape 1st and §566.062 – Statutory Sodomy 1st

When the victim is under 12 the offender will be charged with Forcible Rape or Forcible Sodomy.

DOC assumes the impact of changes to Forcible and Statutory rape 1st and to Forcible and Statutory Sodomy 1st as follows:

The offenses against children under 12 are dangerous felonies and offenders at present serve 85%. The expected prison term will increase from 12 years to 25 years which is beyond the 10 year budget horizon.

At present probation is allowed for these offenses, so the impact includes diverting 17 offenders from probation to serve at least 25 years.

DOC calculates the incarceration impact as follows: FY07 – 17; FY08 – 34; FY09 – 51; FY10 – 68; FY11 – 85; FY12 – 102; FY13 – 119; FY14 – 136; FY15 – 153; FY16 – 170.

§566.067 – Child Molestation 1st

The proposal adds enhanced penalties when the child is under 12 and either the offender has prior sex offense or uses a deadly weapon or inflicts violence. Based on sentencing data in FY05 it is estimated that 10% of offenders convicted of Child Molestation 1st will be sentenced to the enhanced sentence of life without probation or parole. Using the age of victim data, it is estimated that 70% of victims will be under 12. The effect of this bill will not be felt until the seventh year when the additional serving time begins.

DOC calculates the incarceration impact as follows: FY13 – 7; FY14 – 14; FY15 – 21; FY16 – 28.

ASSUMPTION (continued)

§566.151 – Enticement of a Child

The proposal removes the penalty for the attempt of the offense, but that will be covered in Inchoate Offenses. Sentence is enhanced to class B felony or if a prior sex offender then class A felony. Enticement is a new offense. In a full year there is estimated to be 8 offenders received by the DOC and the average sentence will increase from 4 to 7 years and the impact will begin in the fourth year. Serving 67% will increase the population by 23. The prior offender is estimated as 25% of the first offense based upon FY05 sentencing.

DOC calculates the incarceration impact as follows: FY10 – 8; FY11 – 16; FY12 – 23; FY13 – 23; FY14 – 23; FY15 – 23; FY16 – 23.

§589.425 – Sex offender registration

The proposal requires electronic monitoring for 10 years for repeat offenders who fail to register. In FY05, 6 offenders were sentenced as repeat offenders, but the number of violators is increasing. DOC estimates that the number will double after three years and violators will be supervised for 10 years.

DOC calculates the GPS impact as follows: FY07 – 6; FY08 – 12; FY09 – 18; FY10 – 30; FY11 – 42; FY12 – 54; FY13 – 66; FY14 – 78; FY15 – 90; FY16 – 102.

In summary the following is the cumulative effect if this bill were passed as law:

GPS impact: FY07 – 57; FY08 – 114; FY09 – 171; FY10 – 234; FY11 – 297; FY12 – 360; FY13 – 423; FY14 – 486; FY15 – 549; FY16 – 612.

Incarceration impact: FY07 – 17; FY08 – 34; FY09 – 51; FY10 – 76; FY11 – 101; FY12 – 125; FY13 – 149; FY14 – 173; FY15 – 197; FY16 – 221.

Please see the following chart used to outline costs:

ASSUMPTION (continued)

GPS Monitoring Expense of Sex Offender Modification Bill			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	0	365	0
Construction (C4 or C5 \$55,000)			0
GPS Monitoring Cost	12.00	365	4,380
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

	End FY Population	Average Population	GPS Expense	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2006	0	(current year which will have no costs incurred)				
FY 2007	57	29	\$127,020	0	0	\$139,722
FY 2008	114	86	\$376,680	0	0	\$455,783
FY 2009	171	143	\$626,340	0	0	\$833,659
FY 2010	234	203	\$889,140	0	0	\$1,301,790
FY 2011	297	266	\$1,165,080	0	0	\$1,876,373
FY 2012	360	329	\$1,441,020	0	0	\$2,552,855
FY 2013	423	392	\$1,716,960	0	0	\$3,345,869
FY 2014	486	455	\$1,992,900	0	0	\$4,271,958
FY 2015	549	518	\$2,268,840	0	0	\$5,349,806
FY 2016	612	581	\$2,544,780	0	0	\$6,600,504
Total Ten-Year Fiscal Impact:						\$26,728,319

ASSUMPTION (continued)

Operating Expense of Sex Offender Modification Bill			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	39.13	365	14,282
Construction (C4 or C5 \$55,000)			0
Emergency Housing	0.00	365	0
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

	End FY Population	Average Population	Emer Hsng Expense	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2006	0	(current year which will have no costs incurred)				
FY 2007	17	9	0	\$128,538	0	\$132,394
FY 2008	34	26	0	\$371,332	0	\$393,946
FY 2009	51	43	0	\$614,126	0	\$671,072
FY 2010	76	64	0	\$914,048	0	\$1,028,769
FY 2011	101	89	0	\$1,271,098	0	\$1,473,551
FY 2012	125	113	0	\$1,613,866	0	\$1,927,040
FY 2013	149	137	0	\$1,956,634	0	\$2,406,413
FY 2014	173	161	0	\$2,299,402	0	\$2,912,814
FY 2015	197	185	0	\$2,642,170	0	\$3,447,433
FY 2016	221	209	0	\$2,984,938	0	\$4,011,507
Total Ten-Year Fiscal Impact:						\$18,404,939

ASSUMPTION (continued)

DOC estimates the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- \$39.13 (FY05 cost) inmate per capita costs with an inflation rate of 3% per each subsequent year.
- \$3.15 (FY03 cost) average daily probation costs with an inflation rate of 3% per each subsequent year.
- \$12.00 (current) average daily GPS Electronic Monitoring costs with an inflation rate of 3% per each subsequent year.

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 (FY05 average of \$39.13 per inmate, per day or an annual cost of \$14,282 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).

Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of the indicated measurable dollar amounts per year.

ASSUMPTION (continued)

Officials from the **Department of Social Services – Division of Legal Services (DLS)** assume Section 489.042 of the proposal requires any sexual offender that possesses a personal computer to allow his probation and parole officer access to the computer as a condition of probation or parole, to prevent the offender from obtaining and keeping child pornography. The Department of Social Services' State Technical Assistance Team (STAT) is the only state agency that specializes in computer forensics involving child exploitation or child pornography. STAT assumes they will receive the majority of the referrals from the Board of Probation and Parole. For every 18 cases referred, STAT estimates that one FTE Forensic Computer Examiner (at \$40,000 per year) would be needed. In addition, specialized equipment and training would be needed for the FTE.

STAT also assumes that Sections 566.030, 566.032, 566.060, 566.062, 566.066, 566.067, 568.080, and 568.090 RSMo, which increase the penalties for violations of these statutes, will create a substantial drop in the number of guilty pleas. These cases will all have to go to trial. Prosecutors will require a more thorough and professional investigation, concerning the violations in these crimes. Prosecutors and law enforcement will turn to STAT for additional help, in the investigation and prosecution of these child sexual abuse cases; especially, in rural areas where law enforcement is limited in manpower. STAT assumes that the additional requests for assistance would necessitate the need for at least one additional regular commissioned field investigator (Investigator III FTE at \$40,000 per year).

If this bill is passed and becomes law it is estimated that STAT will need a total of two additional FTEs. STAT estimates the total cost of the proposal would be \$189,672 in FY 07, \$139,307 in FY 08, and \$142,881 in FY 09. This would be divided among the General Revenue and Federal Funds.

Oversight has, for fiscal note purposes only, changed the starting salary for the Investigator III and Computer Forensics Examiner to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight also assumes the Department of Social Services would house the additional FTE within existing facilities. The Equipment and Expense has been reduced to eliminate the rent.

ASSUMPTION (continued)

Officials from the **Department of Social Services – Division of Youth Services (DYS)** assume fewer than three youth currently receiving dual jurisdiction services would not be eligible under the proposal. Thus, the possible reduction in the number of future referrals and placements to the dual jurisdiction program is not considered significant and would result in no cost reductions for the DYS.

Officials from the **Office of Prosecution Services (OPS)** did not respond to Oversight's request for fiscal impact. However, in response to a similar proposal from the current session (SB 563, LR # 3091-07), officials assumed the cost to county prosecutors would be a significant unknown amount, over \$100,000 per year. OPS assumed the legislation would significantly increase the trial dockets for the prosecutors because there would be no incentive for plea bargaining. The cost for each office is unknown, but would be significant.

Officials from the **Office of the State Public Defender (SPD)** did not respond to Oversight's request for fiscal impact. However, in response to a similar proposal from the current session (SB 563, LR # 3091-07), officials assumed existing staff could not provide competent, effective representation. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the Office of the Attorney General, Columbia Police Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, Kansas City Police Department, St. Louis County Police Department, St. Louis Metropolitan Police Department, Columbia Public Schools, Mexico Public Schools, and St. Louis Public Schools did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE FUND			
<u>Savings</u> – Reduced appropriations to State School Moneys Fund	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Costs</u> – Office of State Courts Administrator			
Increased petitions for removal from sexual offender registry	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Missouri State Highway Patrol			
Toll-free telephone line	(Less than \$15,000)	(Less than \$15,000)	(Less than \$15,000)
.			
<u>Costs</u> – Department of Corrections			
GPS monitoring cost	(\$139,722)	(\$455,783)	(\$833,659)
Incarceration/probation cost	<u>(\$132,394)</u>	<u>(\$393,946)</u>	<u>(\$671,072)</u>
<u>Total Costs</u> – DOC	<u>(\$272,116)</u>	<u>(\$849,729)</u>	<u>(\$1,504,731)</u>
<u>Costs</u> – Department of Social Services			
Personal Service (1.2 FTE)	(\$35,262)	(\$43,390)	(\$44,475)
Fringe Benefits	(\$15,537)	(\$19,118)	(\$19,596)
Equipment and Expense	<u>(\$52,013)</u>	<u>(\$7,536)</u>	<u>(\$7,762)</u>
<u>Total Costs</u> – DOS	<u>(\$102,812)</u>	<u>(\$70,044)</u>	<u>(\$71,833)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Less than \$489,928)</u>	<u>(Less than \$1,034,773)</u>	<u>(Less than \$1,691,564)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
STATE SCHOOL MONEYS FUND			
<u>Savings</u> – Reduced distributions to local school districts	\$0	Unknown	Unknown
<u>Losses</u> – Reduced appropriations from General Revenue Fund	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
FEDERAL FUNDS			
<u>Costs</u> – Department of Social Services			
Personal Service (0.8 FTE)	(\$23,508)	(\$28,927)	(\$29,650)
Fringe Benefits	(\$10,358)	(\$12,745)	(\$13,064)
Equipment and Expense	(\$34,675)	(\$5,024)	(\$5,175)
<u>Total Costs</u> – DOS	<u>(\$68,541)</u>	<u>(\$46,696)</u>	<u>(\$47,889)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$68,541)</u>	<u>(\$46,696)</u>	<u>(\$47,889)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – School Districts			
Income from fines	Unknown	Unknown	Unknown
<u>Losses</u> – School Districts			
Reduced distributions from State School Moneys Fund	\$0	(Unknown)	(Unknown)
<u>Costs</u> – County Prosecutors			
Increased cases	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(More than \$100,000) to Unknown</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</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 modifies laws regarding sexual offenders:

§43.533 – Toll-Free Sexual Offender Hotline

This section requires the Highway Patrol, subject to appropriation, to operate a toll-free telephone number to disseminate information regarding individuals registered as sexual offenders and receive information from people on the residency of such offenders.

DESCRIPTION (continued)

§188.023 – Abortion Clinic Personnel

This section specifies that any abortion clinic personnel who have prima facie evidence that a client has been the victim of statutory rape are required to report such crime in the same manner as mandatory reporters.

§§217.735 & 559.106 – Lifetime Supervision & Electronic Monitoring

These sections change which offenders must be under lifetime supervision by the Board of Probation and Parole and electronically monitored with a GPS tracking device. Currently, these section requires prior sex offenders who commit rape, sodomy, child molestation, sexual misconduct or abuse, enticement of a child, or sexual trafficking of a child, against a child under the age of 14, to be under lifetime supervision and electronically monitored. Under this proposal, any person convicted of forcible rape, forcible sodomy, statutory rape in the first degree, or statutory sodomy in the first degree, shall be under lifetime supervision and electronically monitored for a first offense committed on or after August 28, 2006. Prior sex offenders, who commit child molestation, sexual misconduct or abuse, enticement of a child, or sexual trafficking of a child, against a child under the age of 14, shall continue to be subject to lifetime supervision and electronic monitoring.

§351.609 – Expediting Subpoenas of Foreign Corporations

The provisions of this section shall apply to any subpoena issued to search for records that are in the actual or constructive possession of a foreign corporation that provides electronic communication services or remote computing services to the general public, where those records would reveal the information concerning the customers using the service. When properly served with a subpoena issued by a Missouri court, a foreign corporation shall provide all records sought pursuant to the warrant within five business days of receipt, including any records maintained or located outside the state. For certain reasons, the time limit for production of the records may be shortened or extended. A foreign corporation seeking to quash the warrant must seek relief from the court that issued the warrant within the time required for production of records under this section. The issuing court shall hear and decide that motion no later than five court days after the motion is filed.

A Missouri corporation that provides electronic communication services or remote computing services to the general public, when served with a warrant issued by another state to produce records that reveal the customers using those services shall produce those records as if the warrant was issued by a court of this state.

DESCRIPTION (continued)

No cause of action shall lie against any foreign corporation or Missouri corporation subject to this section, its officers, employees, agents, or other specified persons for providing records, information, facilities, or assistance in accordance with the terms of a warrant subject to this section.

§489.042 – Computer Access for Probation/Parole Officers

This section authorizes the Board of Probation and Parole or the court to require a person who is required to register as a sexual offender to give his or her assigned probation or parole officer access to his or her personal home computer as a condition of probation or parole in order to prevent such offender from obtaining and keeping child pornography or committing certain sexual offenses.

§566.061 – Definition of Dangerous Felony

This section expands the definition of the term “dangerous felony” to include child kidnapping.

§558.018 – Persistent Sexual Offenders

This section increases the minimum term of imprisonment for a persistent sexual offender from 30 years without probation or parole to life imprisonment without eligibility for probation or parole.

§566.010 – Definition of “Deviate Sexual Intercourse”

This section modifies the definition of the term “deviate sexual intercourse” to include certain sexual acts performed for the purpose of terrorizing the victim.

§566.030 – Forcible Rape

Under this section, the authorized term of imprisonment for a person who commits forcible rape and the victim is less than 12 years of age shall be life imprisonment without eligibility for probation or parole until the person has served at least 25 years of his or her sentence or unless the person has reached the age of 75 years and has served at least 15 years of such sentence. Any sexual intercourse with a child under the age of twelve shall be deemed to have been committed by use of forcible compulsion. A person found guilty of or pleading guilty to forcible rape or attempt to commit forcible rape shall not be granted a suspended imposition of sentence or suspended execution of sentence.

DESCRIPTION (continued)

§566.060 – Forcible Sodomy

Under this section, the authorized term of imprisonment for a person who commits forcible sodomy and the victim is less than 12 years of age shall be life imprisonment without eligibility for probation or parole until the person has served at least 25 years of his or her sentence or unless the person has reached the age of 75 years and has served at least 15 years of such sentence. Any deviate sexual intercourse with a child under the age of twelve shall be deemed to have been committed by use of forcible compulsion. A person found guilty of or pleading guilty to forcible sodomy or attempt to commit forcible sodomy shall not be granted a suspended imposition of sentence or suspended execution of sentence.

§566.067 – Child Molestation in the First Degree

Under this section, a person who commits child molestation in the first degree against a child less than twelve years of age and with certain aggravating circumstances existing shall be guilty of a class A felony and shall serve his or her term of imprisonment without eligibility for probation or parole.

§566.083 – Sexual Misconduct with a Child

This section specifies that sexual misconduct with a child may be committed in person or via the Internet. It is not an affirmative defense that the other person whom the offense was committed against was a peace officer masquerading as a minor.

§566.086 – Sexual Contact with a Student

Currently, only a teacher who has sexual contact with a student while on public school property is guilty of the crime of sexual contact with a student. Under this act, any teacher or student teacher, school employee or volunteer, volunteer of an organization working with the school, or any person employed by an entity that contracts with the public school district to provide services shall be guilty of such crime if he or she has sexual contact with a student on school property. The term “school property” includes the property of any public elementary or secondary school or any school bus used by the public school district. The crime of sexual contact with a student is a Class D felony.

DESCRIPTION (continued)

§566.090 – Sexual Misconduct in the First Degree

Under this section, a person can commit sexual misconduct in the first degree by knowingly exposing his or her genitals to another person without consent for the purpose of sexual gratification.

§566.145 – Sexual Contact with a Prisoner or Offender

This section expands the current crime of “sexual contact with an inmate” to contact with a prisoner or offender.” Currently, an employee of a prison, jail, or correctional facility is guilty of sexual contact with an inmate by having sex with an inmate. Under this proposal, a person is also guilty of such crime if he or she is a probation and parole officer and has sex with an offender who is under the direct supervision of the officer.

§566.151 – Enticement of a Child

This section increases the penalty for enticing a child from a class C felony to a class B felony, unless the person has committed certain other offenses, in which case, it is a class A felony instead of a class B felony. The language providing for “attempting to entice” has been removed.

§573.010 – Definition of Child Pornography

This section modifies the definition of child pornography to include any visual depiction of sexually explicit conduct where: 1) the production involves the use of a minor engaging in sexually explicit conduct; 2) such depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or 3) such depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

§575.195 – Escaping from Commitment

This section specifies that individuals institutionally committed under the “sexual psychopath” statutes in effect prior to 1980 can be guilty of escaping from commitment. Escape from commitment or detention is a class D felony.

DESCRIPTION (continued)

§589.400 – Sexual Offender Registry

This section adds sexual contact with a resident of a nursing home, endangering the welfare of a child if committed in a sexual manner, and genital mutilation to the list of offenses that a person must register for as a sexual offender if he or she pleads guilty or is found guilty. This section removes kidnaping, felonious restraint, and child abuse that is not committed in a sexual manner from the list of offenses that a person must register for as a sexual offender if he or she pleads guilty or is found guilty. Individuals who are current on the sexual offender registry for such offenses shall no longer be required to register as of August 28, 2006. Such person shall remain on the registry for any other offense for which he or she must register.

As of August 28, 2006, persons on the sexual offender registry for the following offenses may petition the court for removal from the registry after ten years:

- Promoting prostitution in the first, second, or third degree;
- Public display of explicit sexual material; and
- Statutory rape in the second degree.

The court may order such person's name removed from the registry if the person has no pending charges for which he or she would have to register and has not been found guilty of any other offense for which he or she was required to register during the past ten-year period.

§589.402 – Newspaper Publication of Registry Information

This section allows the chief law enforcement officer of any county or the St. Louis City to publish the registration information of sexual offenders living within the county or city in the newspaper.

§589.414 – Updating Photos of Sexual Offenders

This section requires registered sexual offenders to provide an updated photograph to law enforcement every five years when they go for their annual reporting.

DESCRIPTION (continued)

§589.425 – GPS Tracking for Failing to Register a Second Time

This section requires any sexual offender to be electronically monitored for a period of ten years if he or she is found guilty or pleads guilty to the crime of failing to register for a second time. Any third or subsequent violation will result in an additional ten-year period of electronic monitoring.

§§632.484, 632.489, and 632.495 - Housing Sexually Violent Predators

These sections specify that individuals being detained by the court for evaluation to determine whether they are sexually violent predators and individuals who have already been determined to be sexually violent predators may not be housed with other mental health patients who have not been determined to be sexually violent predators by the Department of Mental Health.

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 Elementary and Secondary Education
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Department of Public Safety
 – Director’s Office
 – Missouri State Highway Patrol
Office of the Secretary of State
Boone County Sheriff’s Department
Springfield Police Department
Kansas City Public Schools
Parkway Public Schools

L.R. No. 3083-06

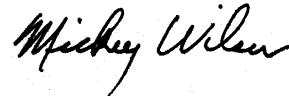
Bill No. SCS for SBs 588, 557, 579, 563, 869, 619, 570, 753, 764, 782, 783, & 890

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February 13, 2006

NOT RESPONDING

Office of the Attorney General, Office of Prosecution Services, Office of the State Public Defender, Columbia Police Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, Kansas City Police Department, St. Louis County Police Department, St. Louis Metropolitan Police Department, Columbia Public Schools, Mexico Public Schools, and St. Louis Public Schools

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, slightly slanted style.

Mickey Wilson, CPA
Director
February 13, 2006