

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3083-09  
Bill No.: Perfected SS for 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: March 8, 2006

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(More than \$891,759)	(More than \$1,860,736)	(More than \$2,910,653)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(More than \$891,759)</b>	<b>(More than \$1,860,736)</b>	<b>(More than \$2,910,653)</b>

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

\* 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 26 pages.

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

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

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Health and Senior Services, Department of Public Safety – Director’s Office**, and the **Springfield Police Department**, assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (SCS for SB 588 et al, LR # 3083-06), officials from the **Boone County Sheriff’s Department, Kansas City Public Schools**, and **Parkway Public Schools** assumed the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General (AGO)** assume costs associated with defending convictions obtained under the revised criminal provisions of this bill can be absorbed with existing resources.

ASSUMPTION (continued)

AGO assumes that the addition of Section 632.505 as well as the addition of subsection 4 of 632.492 will result in additional work for the attorneys who specialize in sexually violent predator cases. Section 632.505 provides for a new conditional release option if a judge or jury finds that an offender is no longer a sexually violent predator. Subsection 4 of Section 632.492 will require the AGO to prove in all commitment cases that the crime was sexually motivated which will add an additional element that must be proven at trial.

Finally, the definition of “sexually violent predator” is expanded to include certain non sex offenses that were sexually motivated. As a result, AGO anticipates that more referrals will be made from Department of Corrections that are flagged under this expanded definition.

AGO anticipates the need for 2 additional Assistant Attorneys General III and 1 additional legal secretary to handle both the additional anticipated referrals and the additional conditional release procedure contemplated for those offenders that are later released from the sexually violent predator unit.

AGO estimates the cost of the proposal to be approximately \$220,000 per fiscal year.

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.

CTS assumes SA 8 regarding no contact orders may cause some additional work for the courts. CTS is unable to quantify the fiscal impact at this time.

Officials from the **Department of Mental Health (DMH)** the following sections would have a fiscal impact on their department:

Section 632.480 (4) (a) – Based on information provided by Department of Corrections (DOC), child kidnapping is a new offense and has no admissions to date.

ASSUMPTION (continued)

Section 632.480 (4) (b) – Based on information provided by DOC, 30 individuals were released from the Department of Corrections in 2005 that were required to attend the MOSOP program but did not commit sexual offenses.

Based upon this new language, it is unknown how many, if any, of these individuals would be civilly committed to DMH as sexually violent predators. Therefore, the Department of Mental Health assumes a minimal to unknown cost.

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.

ASSUMPTION (continued)

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.

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 re-inserts the victim age limitation of less than 14 and adds lifetime supervision of civilly committed sexual predators after release. Current population is 55 and there have not been any releases. DOC assumes no significant impact unless the number of releases increases because of the lifetime monitoring provision.

§489.042 – Probation and Parole Officer Access to Home Computer of Registered Sex Offender

The proposal allows a probation and parole officer access to a home computer if the offender is a registered sex offender. DOC assumes it would entail costs and training if the officer was to perform the perform the function described in the bill.

§556.061 – Child Kidnapping Added to the List of Dangerous Felonies

The proposal adds Child Kidnapping to the list of dangerous felonies. The DOC has not received any offenders for the offense and the expected impact is expected to be low.

ASSUMPTION (continued)

§558.018 – Persistent Sex Offender

Proposes life imprisonment without probation or parole. Existing statute mandates at least 30 years with no probation or parole. Persistent Sex Offenders in prison have very long sentences. DOC assumes no impact.

§559.100 – Prohibits Probation for Certain Sex Offenses

The proposal prohibits probation for statutory rape 1st, statutory sodomy 1st, enticement of a child and sexual trafficking of a child. In FY05 there were 47 offenders with probation for statutory rape or statutory sodomy. Most of these offenders were under 22 at the time of the offense. The average time served is about 5 years for offenders who serve a prison term and the total impact is estimated to be 235 after 5 years.

DOC calculates the incarceration impact as follows: FY07 – 47; FY08 – 94; FY09 – 141; FY10 – 188; FY11 – 235; FY12 – 235; FY13 – 235; FY14 – 235; FY15 – 235; FY16 – 235.

§559.106 – Lifetime Monitoring for Sex Offenders

Lifetime Monitoring for Sex Offenders given probation and are prior sex offenders. Adds child endangerment when there is sexual intercourse. DOC records indicate that there are few such offenders that have been supervised by the DOC. Adds the release of civilly committed sex predators. There have been no releases without a court reversal of commitment. DOC assumes no impact.

§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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> and §566.062 – Statutory Sodomy 1<sup>st</sup>

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 1<sup>st</sup> and to Forcible and Statutory Sodomy 1<sup>st</sup> 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. The impact after 10 years is 170. The total impact after 25 years is an increase in the population of 3,069. This impact is beyond the 10-year scope of this fiscal note.

DOC calculates the diverted probation 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 1<sup>st</sup>

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 1<sup>st</sup> 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 total impact is estimated at 166 and the impact after 10 years is 28.

DOC calculates the diverted probation 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.

§566.213 – Sexual Trafficking of a Child under 12

The proposal requires life imprisonment without probation or parole for 25 years. This is a new offense, and DOC has no data.

§589.425 – Sex Offender Registration

The proposal creates the offense of failing to register third time. The penalty is a class C felony without probation and will serve at least 2 years and requires electronic monitoring for the duration of the sentence under supervision. 10 years for repeat offenders who fail to register. In FY05, 1 offender was sentenced as a third time offender but the number of violators is increasing. DOC has insufficient data to estimate impact; the fiscal impact for this section is Unknown for DOC.

§632.480 – Civil Commitment of Sexual Predators

The proposal adds child kidnapping to the list of sexually violent offenses and allows felonies that are “sexually motivated.” If there was an increase in civil commitment the impact would be upon the Department of Mental Health. Child kidnapping is a new offense and has no admissions to date. The MOSOP (MO Sex Offender Program) unit considered the “sexually motivated” proposal reasonable because of the number of sex offenders who plea-bargained down to a non-sex offense. MOSOP does require offenders who committed sexually motivated offenses but without a sex offense conviction to complete MOSOP. In 2005, there were 30 offenders released who were required to complete MOSOP but who did not have a sex offense, while there were 679 sex offenders released. The percentage is not great and only a few of any of these offenders would meet the other requirements for committal.



ASSUMPTION (continued)

SA 7 – Service Provider

Many rural areas of the state have only one treatment provider available for assessing and treating sex offenders. The result of this amendment is that sex offenders in rural areas who are placed on probation and ordered to undergo assessment and possible treatment will be unable to comply with orders of the court. This amendment will result in convicted sex offenders in rural areas being assessed as requiring treatment but unable to find a treatment provider. This presents a substantial risk to public safety and a substantial risk for liability to the state.

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

FY07 – 64; FY08 – 128; FY09 – 192; FY10 – 264; FY11 – 336; FY12 – 360; FY13 – 384;  
FY14 – 408; FY15 – 432; FY16 – 456.

Please see the following chart used to outline costs:

ASSUMPTION (continued)

<b>Operating Expense of Sex Offender Modification Bill</b>			
	<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

	<b>End FY Population</b>	<b>Average Population</b>	<b>Emer Hsng Expense</b>	<b>Operating Expense</b>	<b>Construction Expense</b>	<b>Total Cost w/ Inflation</b>
FY 2006	0	(current year which will have no costs incurred)				
FY 2007	64	32	0	\$457,024	0	\$470,735
FY 2008	128	96	0	\$1,371,072	0	\$1,454,570
FY 2009	192	160	0	\$2,285,120	0	\$2,497,012
FY 2010	264	228	0	\$3,256,296	0	\$3,664,990
FY 2011	336	300	0	\$4,284,600	0	\$4,967,026
FY 2012	360	348	0	\$4,970,136	0	\$5,934,602
FY 2013	384	372	0	\$5,312,904	0	\$6,534,202
FY 2014	408	396	0	\$5,655,672	0	\$7,164,436
FY 2015	432	420	0	\$5,998,440	0	\$7,826,604
FY 2016	456	444	0	\$6,341,208	0	\$8,522,053
<b>Total Ten-Year Fiscal Impact:</b>						<b>\$49,036,230</b>

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)** officials assume 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 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
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> – Reduced appropriations to			
State School Moneys Fund	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Costs</u> – Office of the Attorney General			
Personal Service (3 FTE)	(\$106,771)	(\$131,328)	(\$134,611)
Fringe Benefits	(\$47,043)	(\$57,863)	(\$59,310)
Equipment and Expense	<u>(\$49,398)</u>	<u>(\$31,931)</u>	<u>(\$32,887)</u>
<u>Total Costs</u> – AGO	(\$203,212)	(\$221,122)	(\$226,808)
<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> – Department of Mental Health			
Increased commitments	(Unknown)	(Unknown)	(Unknown)
<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			
Incarceration/probation cost	(\$470,735 to Unknown)	(\$1,454,570 to Unknown)	(\$2,497,012 to Unknown)
<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>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(More than \$891,759)</u></b>	<b><u>(More than \$1,860,736)</u></b>	<b><u>(More than \$2,910,653)</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>STATE SCHOOL MONEYS FUND</b>			
<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>
<b>ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>FEDERAL FUNDS</b>			
<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	<u>(\$34,675)</u>	<u>(\$5,024)</u>	<u>(\$5,175)</u>
<u>Total Costs</u> – DOS	<u>(\$68,541)</u>	<u>(\$46,696)</u>	<u>(\$47,889)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>(\$68,541)</u></b>	<b><u>(\$46,696)</u></b>	<b><u>(\$47,889)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>POLITICAL SUBDIVISIONS</b>			
<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>
<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>			
	<u><b>(More than \$100,000) to Unknown</b></u>	<u><b>(More than \$100,000)</b></u>	<u><b>(More than \$100,000)</b></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. The toll-free telephone number shall be published on the Highway Patrol’s sexual offender registry website.



DESCRIPTION (continued)

§43.650 – Highway Patrol’s Sexual Offender Web Page

This section specifies in addition to the name, address, and photograph of the offender, the Highway Patrol’s sexual offender web page shall include any known aliases of the offender; the date of birth and any alias dates of birth of the offender; the offender’s physical description; the offender’s residential, temporary, work, and school addresses; the offender’s vehicle information; and the date of release.

§188.023 and SA 5 – Abortion Clinic Personnel

This section specifies that any licensed health care professional who delivers a baby or performs an abortion, who has 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, child molestation in the first degree, sexual misconduct with a child, sex abuse, enticement of a child, sexual trafficking of a child, incest, and use of or promoting use of a child in sexual performance, 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.

DESCRIPTION (continued)

§351.609 – Expediting Subpoenas of Foreign Corporations

The provisions of this section shall apply to any subpoena or search warrant 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 or search warrant 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.

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.

DESCRIPTION (continued)

§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.

§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.

DESCRIPTION (continued)

§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.

§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.

DESCRIPTION (continued)

§566.151 – Enticement of a Child

This section changes the penalty for enticing a child or attempting to entice a child from a class C felony to a felony for which the authorized term of imprisonment shall be not less than 5 years and not more than 30 years. The offender would not be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for 5 calendar years.

§566.213 – Sexual Trafficking of a Child

This section creates the crime of sexual trafficking of a child under the age of 12, a felony with an authorized term of imprisonment of life without eligibility for probation or parole until the defendant has served at least 25 years.

§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 trafficking of a child, sexual trafficking of a child under the age of 12, kidnaping when the victim is a child and the defendant is not a parent or guardian of the child, felonious restraint when the victim is a child and the defendant is not a parent or guardian of the child, 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 committing felonious restraint when the victim was a child and the defendant was the parent or guardian of the child, non-sexual child abuse, or parental kidnapping shall be removed from the registry. The defendant shall remain on the registry for any other offense for which he or she is required to 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.

DESCRIPTION (continued)

§589.402 – Maintain Internet Web Page and Newspaper Publication of Registry Information

The chief law enforcement officer of any county or St. Louis City may include offender aliases; date of birth; alias dates of birth; physical description; residence, temporary, work, and school addresses; photographs of the offender; vehicle description and identification; the nature and dates of all qualifying offenses; and the date the offender was released. This section also allows the chief law enforcement officer of any county or St. Louis City to publish the registration information of sexual offenders living within the county or city in the newspaper.

§589.407 – Sexual Offenders Report Vehicle Information

The sexual offender registration form will include vehicle identifying information. Offenders will be required to provide positive identification and documentation to substantiate accuracy of information on the registration form.

§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.

§589.425 – Failing to Register

This section creates the crime of failing to register as a sex offender, a class A misdemeanor unless the person is required to register based on a Chapter 566 offense, an unclassified felony, a class A or B felony, or a felony involving a child under the age of 14, in which case it is a class D felony. Failing to register as a sex offender as a second offense is a class D felony, or a class C felony if the person is required to register based on a Chapter 566 offense, an unclassified felony, a class A or B felony, or a felony involving a child under the age of 14, in which case it is a class C felony. Failing to register as a sex offender as a third offense shall be punished by a term of imprisonment of not less than 10 years and not more than 30 years. Upon release, an offender who committed failing to register as a sex offender as a third offense shall 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.

DESCRIPTION (continued)

§632.480 – Definition of Sexually Violent Offense

This section adds child kidnapping and any other felony which was sexually motivated to the definition of sexually violent offenses.

§§632.484, 632.489, 632.492, and 632.495 - Housing Sexually Violent Predators

These sections specify that individuals being detained by the court for evaluation to determine by clear and convincing evidence 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. If the petition filed under Sections 632.484 or 632.486 alleges the person committed a sexually violent offense, the attorney general is required to prove by clear and convincing evidence that the offense was sexually motivated.

§632.498, 632.501, 632.504, 632.505, 632.507 – Sexually Violent Predators

The court shall not conduct an annual review of a person's status if he or she has been conditionally released. The court shall set a trial if at a hearing it is determined the person no longer suffers from a mental abnormality that makes the person likely to engage in acts of sexual violence. If the court or jury finds, by clear and convincing evidence, that the person is a sexually violent predator, the person shall remain in custody of the Department of Mental Health. If the court or jury finds the person is no longer a sexually violent predator, the person shall be conditionally released.

SA 2 – §650.120 – Program to Investigate Internet Sex Crimes Against Children

Subject to appropriation, the Missouri State Highway Patrol shall create a program to investigate internet sex crimes against children. The Highway Patrol shall coordinate with any existing task forces located in Missouri to investigate such crimes. The Highway Patrol shall make computer forensics available to any multijurisdictional law enforcement task force or law enforcement agency that requests such assistance.

SA 3 – Technical changes.



DESCRIPTION (continued)

SA 7 – §566.140 – Service Provider

Removes the provisions that no person providing assessment services may be related to any person who has a financial interest in the counseling or treatment program unless the Department of Corrections has identified only one qualified service provider within reasonably accessible distance from the offender or when the only providers available within a reasonable distance are related to any person who has a financial interest in the service provider.

SA 8 – §544.025 – No Contact Order

When a victim of a sexual offense initially makes a report of such offense to a law enforcement officer or a prosecuting attorney, it shall be the duty of such officer or attorney to inform the victim that he or she has the right to request a no contact order be issued against the alleged perpetrator. If the victim requests such an order, the law enforcement officer or the prosecuting attorney shall notify the judge or the officer or prosecuting attorney who will be seeking a warrant from the judge in the sexual assault case that the victim is requesting that a no contact order be issued. When a judge issues an arrest warrant for a person alleged to have committed a sexual offense, if a victim has requested a no contact order, the judge shall issue one at the same time. The order shall remain in effect until the criminal case is concluded.

SA 9 – §547.170 – Bail

Expands the scope of defendants to whom bail is unavailable to include defendants who have pled guilty to or been found guilty of child molestation I, sexual misconduct involving a child, enticement of a child, sexual trafficking of a child, using a child in a sexual performance, promoting sexual performance by a child, sexual exploitation of a minor, promoting child pornography I and II, and possession of child pornography.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

L.R. No. 3083-09

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

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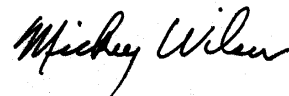
March 8, 2006

### SOURCES OF INFORMATION

Office of the Attorney General  
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  
Office of Prosecution Services  
Boone County Sheriff’s Department  
Springfield Police Department  
Kansas City Public Schools  
Parkway Public Schools

### NOT RESPONDING

**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**



Mickey Wilson, CPA  
Director  
March 8, 2006