

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3110-02
Bill No.: SB 571
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: February 3, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

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

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol, – Missouri State Water Patrol, – Capitol Police, – Director’s Office, Office of the State Public Defender, Boone County Sheriff’s Department, City of Kansas City, and the Springfield Police Department** assume the proposal 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 have no fiscal impact on their agencies, although it may lead to an increase in prosecutions and caseloads.

Officials from the **St. Louis Metropolitan Police Department (SLMPD)** assume the proposed legislation could have a fiscal impact on their agency if they are sued for “criminal prosecution.” Without any history, SLMPD is unable to provide an estimate.

ASSUMPTION (continued)

Oversight assumes, based on the responses received from other law enforcement agencies, that the St. Louis Metropolitan Police Department could absorb any fiscal impact within existing resources.

Officials from the Columbia Police Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, and St. Louis County Police Department did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<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

This act relates to the protection of persons and property.

§563.016 – This section provides a person who is justified in using force immunity from criminal prosecution or civil action, unless the person against whom the force was being used was an on-duty law enforcement officer and the person should have reasonably known that the person was an officer. A law enforcement agency may use standard procedures to investigate the use of force. The agency may arrest the person if it is determined that his or her use of force was unlawful. The court shall award attorney's fees, court costs, and compensation for loss of income, and other expenses in defense of any civil action if the court finds the defendant is immune from prosecution.

BLG:LR:OD (12/02)

DESCRIPTION (continued)

§563.026 – The general justification defense is modified so that any crime, instead of excluding a class A felony or murder, can be “justifiable and not criminal” when necessary in an emergency to avoid injury and when the situation is not the fault of the person committing the crime.

§563.031 – The current provisions of this section concerning the use of force in defense of persons are repealed and replaced by new language.

Under this section, a person is justified in using force, except deadly force, against another when the person reasonably believes that such force is necessary to defend himself or herself or another person against the individual’s imminent use of unlawful force. However, a person is justified in using deadly force and has no duty to retreat if:

1. He or she reasonably believes that such force is necessary to prevent imminent death, great bodily harm or the commission of a forcible felony; or
2. Certain circumstances of imminent peril are present.

§563.036 – The current provisions of this section concerning the use of force in defense of premises are repealed and replaced by new language. A person is justified in the use of force, except deadly force, when he or she reasonably believes that such conduct is necessary to prevent or terminate the other person’s trespass on, or interference with, either real property other than a dwelling or personal property, which is lawfully in his or her possession, in the possession of a family member, or of a person whose property he or she has a legal duty to protect. Use of deadly force is only justified if he or she reasonably believes that such force is necessary to prevent the imminent commission of a forcible felony. There is no duty to retreat if the person is lawfully at the location.

§563.037 – Under this section, a person is presumed to have a reasonable fear of death or great bodily harm when using defensive force that is intended or likely to cause death or great harm to another if:

1. The person against whom the force was used was unlawfully entering a dwelling, residence, or vehicle, or was attempting to remove another person against his or her will; and
2. The person who used force knew or had reason to believe that an unlawful entry was occurring.

DESCRIPTION (continued)

This presumption does not apply if:

1. The person against whom the defensive force is used has a right to be in or is a resident of the dwelling, residence, of vehicle, unless there is an injunction for protection against domestic violence against that person;
2. The person sought to be removed is a child, grandchild, or is otherwise in the custody of the person against whom defensive force is used;
3. The person who uses force is engaged in unlawful activity; or
4. The person against whom force is used is a law enforcement officer who is there to perform official duties and identifies himself or herself appropriately or the person should have known the person was a law enforcement officer.

A person who is not engaged in an unlawful activity and who is attacked in any place where he or she has a right to be has no duty to retreat and has the right to use force against force from another person, including deadly force, if there is a reasonable belief that is it necessary to do so in order to prevent death or great bodily harm or the commission of a dangerous felony. A person who unlawfully and by force enters a dwelling, residence, or vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

§563.065 – Under this section, the justification of the use of force in this chapter is not available to a person who is:

1. Committing or escaping a dangerous felony; or
2. Initially provokes the use of force against himself or herself, unless such force is so great that the person reasonably believes that he or she is in imminent danger of death or bodily harm and all other means to escape are exhausted or the person withdraws and makes it clear that he or she wants to end contact, but the assailant continues to use force.

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

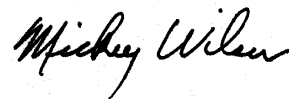
Office of State Courts Administrator
Department of Public Safety

- Missouri State Highway Patrol
- Missouri State Water Patrol
- Capitol Police
- Director's Office

Office of the State Public Defender
Boone County Sheriff's Department
City of Kansas City
Springfield Police Department
St. Louis Metropolitan Police Department

NOT RESPONDING

Columbia Police Department
Greene County Sheriff's Department
Jackson County Sheriff's Department
St. Louis County Police Department



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Director
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