

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3664-03  
Bill No.: SB 557  
Subject: All Agencies; Law Enforcement  
Type: Original  
Date: January 11, 2006

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(More than \$100,000)</b>	<b>(More than \$100,000)</b>	<b>(More than \$100,000)</b>

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

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 15 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>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</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)</b>	<b>(More than \$100,000)</b>	<b>(More than \$100,000)</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Office of Administration – Division of Budget and Planning, Coordinating Board for Higher Education, Department of Economic Development, Department of Transportation, Department of Mental Health, Department of Public Safety – Missouri State Highway Patrol, – Missouri Gaming Commission, – Director’s Office, – Office of Adjutant General, Department of Labor and Industrial Relations, Department of Revenue, Missouri Consolidated Health Care Plan, Department of Insurance, Joint Committee on Legislative Research, Missouri Ethics Commission, Missouri House of Representatives, State Auditor’s Office, Missouri Senate, Office of the State Public Defender, State Tax Commission, Office of Child Advocate, Missouri Certificate of Need Program, Lincoln University, Linn State Technical College, Truman State University, City of Springfield, City of West Plains, Kansas City Metropolitan Community College, Taney County Ambulance District, and the St. Louis Metropolitan Police Department** assume the proposal would have no fiscal impact on their agencies.

Officials from **Southeast Missouri Regional Crime Lab** and **Jasper County** responded to Oversight’s request, but issued no fiscal impact statement.

ASSUMPTION (continued)

Officials from the **Department of Public Safety – Missouri Veterans Commission** assume an Unknown fiscal impact.

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 **Central County Fire and Rescue** assume any additional cost incurred by the department can be offset by the ability to charge the applicant.

§105.003 – Prohibiting State Employees from Being Sexual Offenders

Officials from the **Department of Agriculture (AGR)** assume the proposal would greatly impact the Missouri State Fair's ability to effectively and efficiently hire approximately 1,200 seasonal and Fairweek employees, of which 95% of those hired will work eleven days or less. With the need to hire employees throughout the course of the Fair due to employee turnover, the turnaround time for background checks would make additional hiring impossible. With the additional paperwork requirements and the need for some applicants to be fingerprinted, the Missouri State Fair will see a considerable drop in the number of applicants creating a shortage of viable workers for the annual Fair. AGO assumes they would have 1,360 background checks through the Missouri State Highway Patrol at \$5.00 each and 240 fingerprint checks through Identix at \$50.95 each. AGO estimates the cost of the proposal to be \$15,857 in FY 07, \$19,599 in FY 08, and \$20,187 in FY 09.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the proposal will have little to no impact on the agency. Employees within DESE who have substantial contact with children under the age of sixteen are currently subjected to background checks. In addition, all pupil-contact individuals seeking employment in the schools currently undergo background checks.

ASSUMPTION (continued)

Officials from the **Department of Social Services – Division of Youth Services (DYS)** assume the provisions in the proposal would cause the division to incur an overtime liability of approximately \$122,742 per year to cover vacant positions while background checks are being conducted. In addition, DYS estimates at least 500 background checks will be required to fill vacancies. DYS estimates the cost of these background checks to be \$18,000. In summary, the total fiscal cost to DYS is Unknown, but more than \$100,000.

The **Department of Social Services – Children’s Division** assumes the cost of the proposal to be approximately \$6,000 per fiscal year.

Officials from the **Department of Conservation (MDC)** assume the proposed legislation would have minimal negative impact on MDC funds due to more extensive FBI background checks on certain employment applicants.

Officials from the **Office of the Lieutenant Governor** assume the proposal would have a financial impact on the office for the cost of each background check run if it is deemed they would be required to run a criminal background check on its employees.

Officials from **Missouri State University (MSU)** assume they would run an estimated number of 73 background checks required for employees who work with children under age 16. MSU estimates the cost of the background checks to be \$4,745 in FY 07, \$4,982 in FY 08, and \$5,480 in FY 09.

Officials from the **University of Missouri** assume the proposal would likely affect new hires in University Healthcare, Dental School, Extension 4-H programs, and MU HES Laboratory School. Although the amount would be significant, officials assume it would not exceed \$100,000 annually.

**Oversight** assumes any additional cost incurred by the agency can be offset by the ability to charge the applicant. Therefore, Oversight assumes no fiscal impact to state agencies.

ASSUMPTION (continued)

§488.5362 – Court Surcharge to Fund Sexual Offender Address Review

Officials from the **Office of State Courts Administrator (CTS)** assume, based on a 50% felony collection rate, that the legislation will produce \$149,755 in the first 12 months, \$293,875 in the second 12 months, \$313,466 in the third 12 months, and \$333,017 annually thereafter. Based on a 60% felony collection rate, CTS assumes the legislation will produce \$153,670 in the first 12 months, \$301,703 in the second 12 months, \$325,189 in the third 12 months, and \$348,674 annually thereafter.

**Oversight** assumes, for fiscal note purposes, a 50% felony collection rate. Oversight has reduced the first 12 months estimate to reflect 10 months.

§§566.032, 566.062, & 566.067 – Increased Penalties for Certain Sexual Offenses

Officials from the **Department of Corrections (DOC)** assume the proposal increases the penalties and terms of imprisonment for certain sexual offenses and adds new sexual offenses.

There are three provisions of this proposed legislation that will have a significant effect on DOC.

First, the provision increasing the length of incarceration for offenders convicted of Statutory Rape 1<sup>st</sup> degree from the current average of 4 years to 6.25 years. This provision will result in an additional 8 offenders beginning in year 5, 16 additional in year 6, and 18 additional in year 7 and beyond.

Second, the provision increasing the length of incarceration for offenders convicted of Statutory Sodomy 1<sup>st</sup> degree from the current average of 3.7 years to 5.9 years. This provision will result in an additional 8 offenders beginning in year 5, 16 additional in year 6, and 18 additional in year 7 and beyond.

Third, the provision increasing the penalty for Child Molestation 1<sup>st</sup> degree from a B felony to an A felony. This provision will result in an additional 80 offenders beginning in year 7, 160 additional in year 8, 240 additional in year 9, and 320 in year 10.

ASSUMPTION (continued)

The effect of passage of this bill amounts to:

- Year 1: 0 Additional offenders by the end of the year
- Year 2: 0 Additional offenders by the end of the year
- Year 3: 0 Additional offenders by the end of the year
- Year 4: 0 Additional offenders by the end of the year
- Year 5: 16 Additional offenders by the end of the year
- Year 6: 32 Additional offenders by the end of the year
- Year 7: 116 Additional offenders by the end of the year
- Year 8: 196 Additional offenders by the end of the year
- Year 9: 276 Additional offenders by the end of the year
- Year 10: 356 Additional offenders by the end of the year

Please see the following chart used to outline costs:

<b>Increased Sentences for Sexual Offenses Assumptions</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

ASSUMPTION (continued)

	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	0	0	0	\$0	0	\$0
FY 2008	0	0	0	\$0	0	\$0
FY 2009	0	0	0	\$0	0	\$0
FY 2010	0	0	0	\$0	0	\$0
FY 2011	16	8	0	\$114,256	0	\$132,454
FY 2012	32	24	0	\$342,768	0	\$409,283
FY 2013	116	74	0	\$1,056,868	0	\$1,299,814
FY 2014	196	156	0	\$2,227,992	0	\$2,822,354
FY 2015	276	236	0	\$3,370,552	0	\$4,397,806
FY 2016	356	316	0	\$4,513,112	0	\$6,065,245
<b>Total Ten-Year Fiscal Impact:</b>						\$15,126,956

It is estimated 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.

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).

ASSUMPTION (continued)

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 amount per year.

Officials from the **Office of Prosecution Services (OPS)** assume the cost to county prosecutors would be a significant unknown amount, over \$100,000 per year. OPS assumes 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.

§§589.575 & 589.576 – Semi-annual Review of Addresses

Officials from the **Boone County Sheriff's Department** assume the proposal would result in substantial costs to their department. Boone county's sex offender registry comprises of 182 individuals. To track each offender semi-annually will require the addition of one full-time deputy. The total cost for one deputy for one year is approximately \$72,400.

Officials from **Clay County** assume the cost to administer the proposal could be in excess in \$40,000 per year for employee salary and benefits.

Officials from the **Platte County Sheriff's Department** assume the annual estimated cost to semi-annually verify all 64 registered Sexual Offenders and report to the Missouri State



L.R. No. 3664-03  
Bill No. SB 557  
Page 9 of 15  
January 11, 2006

Highway Patrol would be approximately \$49,200 per year.

BLG:LR:OD (12/02)

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Department of Social Services</u> Overtime	<u>(More than</u> <u>\$100,000)</u>	<u>(More than</u> <u>\$100,000)</u>	<u>(More than</u> <u>\$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(More than</u> <u>\$100,000)</u></b>	<b><u>(More than</u> <u>\$100,000)</u></b>	<b><u>(More than</u> <u>\$100,000)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>POLITICAL SUBDIVISIONS</b>			
<u>Revenues – County Law Enforcement</u> Surcharge on felony and misdemeanor cases (§488.5362)	\$124,795	\$293,875	\$313,446
<u>Costs – County Law Enforcement</u> Review and verify addresses of sexual offenders (§488.5362)	(\$124,795)	(\$293,875)	(\$313,446)
<u>Costs – County Prosecutors</u> Increased trials	<u>(More than</u> <u>\$100,000)</u>	<u>(More than</u> <u>\$100,000)</u>	<u>(More than</u> <u>\$100,000)</u>
<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>	<b><u>(More than</u> <u>\$100,000)</u></b>	<b><u>(More than</u> <u>\$100,000)</u></b>	<b><u>(More than</u> <u>\$100,000)</u></b>

### FISCAL IMPACT - Small Business

The proposed legislation could have a fiscal impact on small businesses with more than ten employees who choose to request a criminal background check for employees to be hired for positions with substantial direct contact with children under the age of sixteen. Also, small businesses with more than ten employees could experience a fiscal impact because they will be held civilly liable for damages resulting from any sexual offense committed by an employee that occurred because the employee had contact with the child through his/her employment if the employee was required to register as a sexual offender.

### DESCRIPTION

The proposed legislation strengthens the laws against sexual offenders:

§105.003 – Prohibiting State Employees from Being Sexual Offenders – Under this section, before a state agency hires a person for a position with substantial direct contact with children under the age of sixteen, the agency must request a criminal background check. If an applicant has not resided in this state for 5 consecutive years prior to the date of his or her application, the agency shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The patrol shall notify the submitting agency of any criminal history information or lack of criminal history information discovered on the individual. All records related to any criminal history information discovered shall be accessible and available to the agency making the record request. In the case of temporary employees hired through or contracted for an employment agency, the employment agency shall be subject to the provisions of this section prior to sending the employee to a state agency. When a state agency requests a criminal background check, it may require the applicant to reimburse the state for the cost of such record check. When it requests a nationwide criminal background check, the total cost shall be paid by the state. However, the obligation of the state agency to obtain a nationwide criminal background check shall be subject to the availability of appropriations. An applicant subject to this section shall sign a consent form so the state may request a criminal records review and disclose the applicant's criminal history. Any state agency shall not hire any individual for a position with substantial direct contact with children less than sixteen years of age, who has pleaded guilty to or been found guilty of any offense for which a person must register as a sexual offender. Any state agency, board or commission shall be prohibited from hiring an applicant who fails to disclose his or her criminal history.

DESCRIPTION (continued)

§285.028 – Civil Liability of Private Employers Who Employ Sexual Offenders – Under this section, before a private employer with more than 10 employees hires an individual for a position with substantial direct contact with children under the age of 16, the employer may request a criminal background check. If an applicant has not resided in this state for 5 consecutive years prior to the date of his or her application, the employer may request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The patrol shall notify the submitting employer of any criminal history information or lack of criminal history information discovered on the individual. The records related to any criminal history discovered shall be accessible and available to the employer making the record request. The employer may require the applicant to reimburse the employer for the cost of such record check. An applicant for such a position must sign a consent form so the private employer may request a criminal records review and disclose the applicant's criminal history. If an employer subject to this section hires any individual for a position with substantial direct contact with children less than sixteen years of age, the employer shall be held civilly liable for any damages resulting from a sexual offense committed by the employee that occurred because the employee had contact with the child through his or her employment and the employee is a person who has pleaded guilty to or been found guilty of any offense for which a person must register as a sexual offender.

§351.609 – Expediting Search Warrants of Foreign Corporations – The provisions of this section shall apply to any 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 search warrant issued by a Missouri court, a foreign corporation shall provide to the peace officer to whom the search warrant was issued, all records sought pursuant to the warrant within 5 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 concerning 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.

DESCRIPTION (continued)

§488.5362 – Court Surcharge to Fund Sexual Offender Address Review – This section imposes a \$5 surcharge on all circuit court proceedings filed in all criminal cases in which the defendant pleads guilty to or is convicted of a felony or misdemeanor. The money collected by the court clerks shall be payable to the county treasurer, who shall hold the money in a separate fund. The money in the fund shall be used only to provide funding for the chief law enforcement officer of the county to review and verify the addresses of registered sexual offenders residing in the county.

§566.032 – Statutory Rape in the First Degree – This section increases the penalty for statutory rape in the first degree to a class A felony. The penalty for a class A felony is 10 to 30 years or life imprisonment.

§566.062 – Statutory Sodomy in the First Degree – This section increases the penalty for statutory sodomy in the first degree from a class B felony to a class A felony. The penalty for a class A felony is 10 to 30 years or life imprisonment.

§566.067 – Child Molestation in the First Degree – This section increases the penalty for child molestation in the first degree to a class A felony. The penalty for a class A felony is 10 to 30 years or life imprisonment.

§589.414 – Update of Sexual Offender Photographs – This section requires sexual offenders to annually update their photographs on file when they report in person to verify their information.

§589.575 – Semi-annual Review of Addresses – The chief law enforcement officer of the county shall review semi-annually the address of each registered sexual offender who resides in said county and verify whether the offender is residing at the address provided by him or her. Upon verification of the addresses of the county's sexual offenders, the chief law enforcement officer shall forward a list of the names and addresses of offenders residing at his or her provided address and a list of offenders who are no longer residing at his or her provided address to the highway patrol.

§589.576 – Sharing Sexual Registry Information – Upon semi-annually receiving the verified sexual offender addresses from the chief law enforcement officer of each county, the highway patrol shall compile and provide the names of such offenders who are no longer residing at the address provided to law enforcement to the attorney general or the head law enforcement agency of Tennessee, Kentucky, Illinois, Iowa, Nebraska, Kansas, Oklahoma, and Arkansas.

DESCRIPTION (continued)

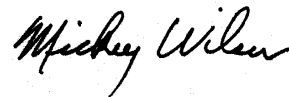
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Agriculture  
Office of Administration – Division of Budget and Planning  
Coordinating Board for Higher Education  
Office of State Courts Administrator  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Transportation  
Department of Mental Health  
Department of Corrections  
Department of Social Services  
Department of Public Safety  
    – Missouri State Highway Patrol  
    – Missouri Gaming Commission  
    – Director’s Office  
    – Missouri Veterans Commission  
    – Office of Adjutant General  
Department of Labor and Industrial Relations  
Department of Revenue  
Missouri Consolidated Health Care Plan  
Department of Insurance  
Joint Committee on Legislative Research  
Missouri Ethics Commission  
Missouri House of Representatives  
Office of the Lieutenant Governor  
Office of Prosecution Services  
State Auditor’s Office  
Missouri Senate  
Office of the Secretary of State  
Office of the State Public Defender  
State Tax Commission  
Office of Child Advocate  
Missouri Certificate of Need Program

SOURCES OF INFORMATION (continued)

Missouri State University  
University of Missouri  
Lincoln University  
Linn State Technical College  
Truman State University,  
Southeast Missouri Regional Crime Lab  
Boone County Sheriff's Department  
City of Springfield  
Jasper County  
City of West Plains  
Kansas City Metropolitan Community College  
Taney County Ambulance District  
Clay County  
Platte County Sheriff's Department  
Central County Fire and Rescue  
St. Louis Metropolitan Police Department



Mickey Wilson, CPA  
Director  
January 11, 2006