

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0310-02
Bill No.: SB 5
Subject: Crimes and Punishment
Type: Original
Date: January 19, 2007

Bill Summary: The proposal modifies the laws on child pornography and establishes a civil cause of action for victims of certain child pornography-related offenses.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
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 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol** and the – **Director’s Office** 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 **Department of Corrections (DOC)** assume the proposal modifies the laws on child pornography as follows:

- eliminating probation, parole or conditional release for promoting child pornography I and II in §§573.025 and 573.035
- possession of child pornography has been changed from class C and D felonies to an unclassified felony in §573.037 with terms of imprisonment for at least one and no more than ten years.

DOC does not have access to the age of the minor(s) involved with child pornography I and II convictions; however, offenders who received P&P services would now receive incarceration. In FY06, three individuals received probation.

DOC received nine individuals total in FY06 sentenced to prison for possession of child pornography charges. DOC assumes these individuals could be sentenced with a longer sentence under passage of this proposal but that effect (if any) would be after the three-year scope of this fiscal note.

DOC cannot currently predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through incarceration (FY06 average of \$39.43 per inmate, per day or an annual cost of \$14,394 per inmate).

ASSUMPTION (continued)

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. 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 probation would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Although the exact fiscal impact is unknown, DOC assumes the impact would be less than \$100,000 per year.

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

Officials from the **Office of the State Public Defender (SPD)** assume existing staff could not provide competent, effective representation for any cases arising where indigent persons were charged with promoting child pornography and are convicted of, plead guilty to, or are found guilty and must serve at least three calendar years; or possession of child pornography for which the authorized term of imprisonment shall not be less than one year and not more than ten years. SPD has approximately twelve of these cases per year. Since probation is taken away as a possible disposition, these cases will proceed to trial in most instances. 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.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Incarceration Costs	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<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.

FISCAL DESCRIPTION

The proposed legislation modifies the laws on child pornography:

The proposal prohibits any person convicted of promoting child pornography in the first degree from being eligible for probation or parole for at least three years. (§573.025)

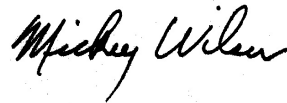
The proposal prohibits any person convicted of promoting child pornography in the second degree from being eligible for probation. (§573.035)

The proposal makes possession of child pornography an unclassified felony with a term of imprisonment of one to ten years, rather than a class D felony with a term of imprisonment of one to four years. (§573.037)

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

SOURCES OF INFORMATION

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



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Director
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