

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0310-06  
Bill No.: Perfected SS for SCS for SB 5  
Subject: Crimes and Punishment  
Type: Original  
Date: April 17, 2007

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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**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Less than \$350,000)	(Less than \$350,000)	(Less than \$350,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Less than \$350,000)</b>	<b>(Less than \$350,000)</b>	<b>(Less than \$350,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<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 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<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 FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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).

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

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol** assume the proposal would have no fiscal impact on their agency.

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 B and C felonies.

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 **Department of Public Safety (DPS)** state they awarded 12 grants in FY 2007 with the current appropriation of \$250,000. Assuming this proposal adds another grant program, DPS assumes the need for a 1,000 hour Program Representative and associated expenses to provide oversight necessary for the expanded program. DPS assumes the cost of the part time employee to total roughly \$22,000 per year.

**Oversight** assumes with the passage of this proposal, the Department of Public Safety will establish another grant program with the focus of investigating Internet sex crimes against children and would have a similar fiscal impact as the grant program for multijurisdictional internet cyber crime law enforcement task forces. Since not more than three percent of the funding may be used by DPS to pay the administrative costs of the grant program, Oversight will assume DPS will be allowed administrative costs of \$7,500 (3% of \$250,000 - which will reduce the grant totals to \$242,500). Like the current funding for grants to multijurisdictional Internet cyber crime law enforcement task forces, Oversight will assume the funding will be made from the General Revenue Fund.

**Oversight** also assumes changing the statutes to allow these groups to use the grant moneys to purchase equipment (expanded from salaries and training) would not fiscally impact the state.

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.

ASSUMPTION (continued)

Officials from the **Office of the State Public Defender (SPD)** assume this new crime will require more SPD resources. 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
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Department of Corrections</u>			
Incarceration Costs (§§573.025, 573.035, 573.037)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs – Department of Public Safety</u>			
Grants to Multijurisdictional enforcement groups (§650.120)	(\$242,500)	(\$242,500)	(\$242,500)
<u>Costs – Department of Public Safety</u>			
Administrative costs allowed of 3% of grant totals (§650.120)	<u>(\$7,500)</u>	<u>(\$7,500)</u>	<u>(\$7,500)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Less than \$350,000)</u></b>	<b><u>(Less than \$350,000)</u></b>	<b><u>(Less than \$350,000)</u></b>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

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 class C felony rather than a class D felony. If the person possesses more than twenty images of child pornography or has previously committed this offense the crime is a class B felony, rather than a class C felony. (§573.037)

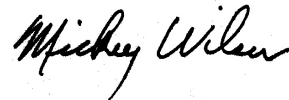
Under the proposal, multijurisdictional enforcement groups are allowed to receive grant money to investigate internet sex crimes against children. The money cannot be used to pay any cost associated with investigating drug violations. The proposal allows up to 3% of the money appropriated to the Department of Public Safety for the grant program to be used for administrative costs. (§§195.503 & 650.120)

The proposal has an emergency clause for §§195.503 & 650.120, making these sections in full force and effect upon passage and approval.

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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