

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2284-02  
Bill No.: SCS for SB 660, 553, 557, 167, 258, 114, & 378  
Subject: Crimes and Punishment; Criminal Procedure; Courts; Firearms; Weapons; Fire Protection; Department of Corrections; Drugs and Controlled Substances; Highway Patrol  
Type: Original  
Date: April 2, 2007

Bill Summary: The proposal modifies various provisions relating to crime.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(More than \$3,676,959)	(More than \$2,528,721)	(More than \$2,537,982)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(More than \$3,676,959)</b>	<b>(More than \$2,528,721)</b>	<b>(More than \$2,537,982)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
State Legal Expense	\$0	\$0	\$0
<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 12 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</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 FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
General Revenue	5	5	5
<b>Total Estimated Net Effect on FTE</b>	<b>5</b>	<b>5</b>	<b>5</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>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, Department of Insurance, Financial Institutions, and Professional Registration, Department of Public Safety – Division of Fire Safety, – Director’s Office, Department of Conservation, Boone County Sheriff’s Department, and the Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Department of Corrections (DOC)** assume the crimes created in this bill are class A misdemeanors; however, the crime of unlawful possession of a concealable firearm has also been expanded to include an explosive weapon with the penalty of a class C felony.

The 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 either through incarceration (FY06 average of \$39.43 per inmate, per day or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY06 average of \$2.52 per offender, per day or an annual cost of \$920 per offender).

In summary, supervision by the DOC through probation or incarceration 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. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Office of the State Public Defender (SPD)** assume the new crimes 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.

ASSUMPTION (continued)

**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 **Office of Prosecution Services (OPS)** did not respond to Oversight's request for fiscal impact. However, in response to similar proposals (SB 378, LR # 1538-01 and SB 553, LR # 2286-01), officials stated any increase in the number of cases referred for criminal prosecution will have an additional fiscal impact on county prosecutors. However, officials from the OPS are not aware of any estimates of the number of additional criminal cases that would be referred to county prosecutors for charges because of this proposed legislation. Additionally, the OPS is not otherwise able to establish a workable estimate of the number of additional criminal cases that would be referred to county prosecutors for charges. It is therefore, not possible to determine if this proposal would have a significant direct fiscal impact on county prosecutors or the OPS.

**Oversight** assumes the Office of Prosecution Services and county prosecutors could absorb any additional costs incurred as a result of the proposed legislation within existing resources.

Execution Team (§ 546.720)

Officials from the **Office of Administration – General Services Division (COA)** did not respond to Oversight's request for fiscal impact. However, in response to a similar proposal (SB 258, LR # 0943-02), officials assumed the proposal has the potential for costs to the state legal expense fund that cannot be determined at this time. There would be exposure to the fund should an action be filed in federal court by those in opposition to the execution. In state court, the execution team, if deemed state employees for purposes of the fund, would also be provided the personal liability protection as stated in 105.711.5, RSMo.

The state self-assumes its own liability protection under the state legal expense fund, Section 105.711, RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General. The proposed legislation has the potential for costs to the state. COA has reflected the unknown fiscal impact to the general revenue fund, as general revenue funds the state legal expense fund.

ASSUMPTION (continued)

Methamphetamine Offense Registry (§ 589.600)

Officials from the **Office of State Courts Administrator (CTS)** assume the proposal would require court clerks to forward a copy of the judgment and date of birth of all persons convicted of methamphetamine drug offenses to the Missouri Highway Patrol within 45 days of the judgment.

Pursuant to §43.503, RSMo and via the criminal records repository, court clerks already furnish the requested information to the Missouri Highway Patrol. In addition, these offenses are available on Case.net. All courts, except Greene County, provide or will provide the requested information on Case.net by the effective date of the legislation. Greene County currently provides this information on their website. Greene County will be on Case.net within 18 months.

If a separate electronic reporting system is required, additional costs would be needed to develop and maintain the system. Depending on how the legislation is implemented, there may be a cost, but CTS is unable to quantify the cost at this time.

**Oversight** assumes the Office of State Courts Administrator (CTS) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the courts would be reflected in future budget requests.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSHP)** assume their Information Systems Division would manually enter the Methamphetamine conviction data into an Internet accessible database.

MSHP assumes outside consultants will create the coding necessary to allow the manual entry of conviction data into an Internet accessible database. MSHP assumes 500 consultant hours would be required to design, program, test, and implement the web based application. MSHP estimates the cost to be 500 hrs x \$85 per hour (state contract rate) = \$42,500.

MSHP also assumes it would require one server for hosting the web based application software and database which would cost approximately \$7,000. One Websphere License would cost \$3,319. Annual maintenance for the Websphere starting in year two would cost \$625 per year.

MSHP estimates the total one-time expenditures to be \$52,819 in FY 08, and the recurring costs (starting FY 09) to be \$625 per year.

ASSUMPTION (continued)

DNA Testing to Include Certain Juvenile Offenders (§§ 650.055, 650.056)

Officials from the **Department of Social Services – Division of Youth Services (DYS)** assume the proposal would have no fiscal impact on their agency because DHS is not charged with the responsibility of gathering DNA samples. There is a potential need for DHS to produce a youth for DNA sampling. DHS would cooperate with the responsible authorities to make the youth available for testing.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSHP)** assume they would require a new facility, equipment, and employees as a result of the proposed legislation because there would be an increase in the sample intake to nearly double (100,000 per year) the unit's present DNA sample processing capability of 50,000 per year.

Estimates are based on the assumption that an equal number of juveniles will be adjudicated as adults were convicted. Actual juvenile and class A misdemeanor statistics are not known. Juvenile statistics are based on the number of adults who were convicted under chapters 565 and 566 RSMo. According to Office of State Courts Administrator, 188,262 misdemeanor charges, excluding traffic, were filed in 2006. The proposed legislation only requires DNA samples for class A misdemeanor convictions. MSHP estimates that approximately 25% of all misdemeanor charges would result in a class A conviction. Cost calculations are based on the unit's present processing capacity and operational costs.

MSHP estimates there would be approximately 28,000 new offenders, 2,500 Juveniles under Chapters 565 and 566, and 50,000 class A misdemeanors annually for a first year total of 80,500.

Taking into account 20% recidivism for the second year and beyond:  
20% of offenders will recommit crimes, and therefore, will not need to have DNA sample processing again. This leaves 80% of offenders:  $2,000 (2,500 \times 80\%) + 40,000 (50,000 \times 80\%) + 28,000$  new offenders each year = 70,000.

Since the unit's present DNA sample processing capability is 50,000 per year, the backlog would be  $80,500 - 50,000 = 30,500$  for the first year and then assuming the DNA sample processing capability is 100,000 ( $50,000 \times 2$  times capability) for the second year and beyond, the backlog would be  $-500 (70,000 + 30,500 - 100,000)$ , which means the backlog would be completed in 2 years.

ASSUMPTION (continued)

The cost of the collection kit and processing is \$22.20  
First year cost to process sample DNA 50,000 x \$22.20 = \$1,110,000 (Recurring)  
Second year cost and beyond to process sample DNA  
100,000 x \$22.20 = \$2,220,000 (Recurring)

MSHP assumes they would require 5 new FTE employees:

2 Laboratory Evidence Technicians I (\$1019 x 24 x 2) \$48,912 (Recurring)  
To receive, accept, track and store all samples; data entry; maintain equipment and supplies; train collectors.

2 DNA Criminalists I (\$1461.50 x 24 x 2) \$70,152 (Recurring)  
To prepare and analyze DNA samples and upload profiles to CODIS.

1 Computer Information Technician (\$1360.50 x 24) \$32,652 (Recurring)  
To maintain the DNA Profiling computer information system.

MSHP assumes the following construction costs for a laboratory and storage space:

Laboratory space: 1,000 square feet per FTE at \$300 per square foot  
1,000 x \$300 x 5 FTE = \$1,500,000 (One Time)

Sample storage space for 10 yrs:  
150,000 samples are stored within 160 square feet  
692,500 samples (10 yrs) / 150,000 samples = 4.62 or 5 (rounded) x 160 square feet = 800 square feet x \$300 = \$240,000 (One Time)  
Total construction costs = \$1,500,000 + \$240,000 = \$1,740,000 (One Time)

MSHP assumes the following equipment/maintenance/ accreditation costs:

Instrumentation/Equipment (see attachment for breakdown) \$516,648.25 (One Time)  
Equipment maintenance (see attachment for breakdown) \$45,135.00 (Recurring)  
Accreditation requirements (see attachment for breakdown) \$4,300.00 (Recurring)

In summary, MSHP assumes the total cost of the proposal to be \$3,624,140 in FY 08 and approximately \$2,500,000 in subsequent years.

ASSUMPTION (continued)

**Oversight** assumes, based on information received from Office of State Courts Administrator, that the legislation would apply to 774 juveniles per year and 83,331 class A misdemeanor convictions per year, or a total of 84,105 DNA samples per year. Since this number approximates the estimated DNA samples per year provided by Missouri State Highway Patrol, Oversight has utilized the cost estimates provided by the Missouri State Highway Patrol for fiscal note purposes.

**Officials from the Clark County Sheriff's Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, St. Louis County Police Department, St. Louis County Department of Justice Services, Columbia Police Department, Kansas City Police Department, and the St. Louis Metropolitan Police Department did not respond to Oversight's request for fiscal impact.**



<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
<b>GENERAL REVENUE FUND</b>			
<u>Transfers out</u> – Office of Administration			
To the state legal expense fund (§546.720)	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Missouri State Highway Patrol			
Personal Service (§§650.055, 650.056)	(\$130,223)	(\$160,956)	(\$165,784)
Fringe Benefits (§§650.055, 650.056)	(\$77,834)	(\$96,203)	(\$99,089)
Equipment and Expense (§§650.055, 650.056)	(\$1,676,083)	(\$2,270,918)	(\$2,272,446)
Laboratory/Storage Facilities (§§650.055, 650.056)	(\$1,740,000)	\$0	\$0
Consultant fee (§ 589.600)	(\$42,500)	\$0	\$0
Equipment (§ 589.600)	(\$10,319)	\$0	\$0
Maintenance (§ 589.600)	\$0	(\$644)	(\$663)
<u>Total Costs – MSHP</u>	<u>(\$3,676,959)</u>	<u>(\$2,528,721)</u>	<u>(\$2,537,982)</u>
FTE Change – MSHP	5 FTE	5 FTE	5 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
	<b><u>(More than \$3,676,959)</u></b>	<b><u>(More than \$2,528,721)</u></b>	<b><u>(More than \$2,537,982)</u></b>
Estimated Net FTE Change for General Revenue Fund	5 FTE	5 FTE	5 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2008	FY 2009	FY 2010
(continued)	(10 Mo.)		

**STATE LEGAL EXPENSE FUND**

<u>Transfers in</u> – Office of Administration			
From general revenue fund (§546.720)	Unknown	Unknown	Unknown

<u>Costs</u> – Office of Administration			
Increased liability protection			
(§546.720)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<b>ESTIMATED NET EFFECT ON STATE LEGAL EXPENSE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2008	FY 2009	FY 2010
	(10 Mo.)		
	<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 requires the Director of the Department of Corrections to select an execution team. All members of the execution team are entitled to coverage under the state legal expense fund. Knowingly disclosing the identity of a member of an execution team is a class A misdemeanor. (§ 546.720)

The proposal creates a “Methamphetamine Offense Registry” and requires the Missouri State Highway Patrol to maintain a public web page with registered methamphetamine offender search capability. (§ 589.600)

FISCAL DESCRIPTION (continued)

The proposal requires juveniles adjudicated of offenses which would constitute certain felonies or any sexual offense under Chapter 566, RSMo, if committed by an adult, to have a biological sample collected for the purposes of DNA profiling analysis. The proposal would also require persons who have committed a class A misdemeanor to have the same sample collected. Any knowing refusal or failure to provide a DNA sample is a class A misdemeanor. Knowingly unauthorized tampering, knowing attempt to tamper, or other knowingly unauthorized use, knowing attempt to use, or knowing dissemination of DNA samples is a class A misdemeanor. (§ 650.055)

Section 566.147 of the proposal, which modifies how it is determined whether a sex offender resides within 1,000 feet of a school or child-care facility, contains an emergency clause and would be 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.

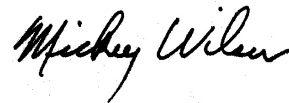
SOURCES OF INFORMATION

Office of the Attorney General  
Office of Administration  
    – Administrative Hearing Commission  
Office of State Courts Administrator  
Department of Insurance, Financial Institutions, and Professional Registration  
Department of Corrections  
Department of Social Services  
Department of Public Safety  
    – Missouri State Highway Patrol  
    – Division of Fire Safety  
    – Director's Office  
Department of Conservation  
Office of the State Public Defender  
Boone County Sheriff's Department  
Springfield Police Department

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**NOT RESPONDING**

**Office of the Governor  
Office of Administration  
– General Services Division  
Office of Prosecution Services  
Greene County Sheriff's Department  
Jackson County Sheriff's Department  
St. Louis County Police Department  
Columbia Police Department  
Kansas City Police Department  
St. Louis Metropolitan Police Department**



Mickey Wilson, CPA  
Director  
April 2, 2007