

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3292-07
Bill No.: SCS for SBs 714, 933, 899, & 758
Subject: Crimes and punishment; Children and Minors; Criminal Procedure; Law Enforcement Officers and Agencies
Type: Original
Date: February 25, 2008

Bill Summary: The proposal modifies various provisions relating to crimes against children.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
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 2009	FY 2010	FY 2011
Criminal Records System	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
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 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Director’s Office** and the **Boone County Sheriff’s 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 **Department of Natural Resources (DNR)** assume Section 566.152 of this proposal would prohibit certain sexual offenders from being present in or loitering within 500 feet of any designated camping area or playground located in state parks. Violations would be a class A misdemeanor.

To enforce this provision, DNR assumes they would need to create a visual boundary that would clearly establish a zone around playgrounds and designated camping areas from which to measure the 500 foot buffer zone. Those zones would then have to be marked with signage to provide adequate communication of the area restrictions.

DNR’s Division of State Parks (DSP) has 124 playgrounds, of which 81 are outside of campgrounds. DSP has 70 individual campgrounds in 40 state parks.

DNR estimates the cost as follows:

- 81 playgrounds outside of campgrounds (20 signs per playground at the 500 foot perimeter, as per the legislation) = 1,620 signs at \$100/sign for production, post and installation, or \$162,000.
- 70 Campgrounds (80 signs to mark each campground X 70 campgrounds) = 5,00 signs @ \$100 a sign = \$560,000
- Total estimate \$722,000

DNR notes signs are estimated to be placed at 100' intervals, as per their boundary signing policy.

ASSUMPTION (continued)

In response to a similar proposal from the current session (SB 758, LR # 3284-01), officials from the **Department of Natural Resources (DNR)** assumed there would be fiscal impact from this proposal because they would need to implement a tracking system to manage the information required by the proposal. There would also be costs associated with training employees tasked with collecting, maintaining, and distributing, if requested by the public, such required information. Officials assume the cost would not exceed \$100,000 per fiscal year.

Oversight assumes the legislation does not require a perimeter 500 feet around a camping area or playground located in a state park to be marked with signs. Therefore, the fiscal note reflects no cost for signs. Oversight also assumes the Department of Natural Resources (DNR) could absorb the administrative cost of implementing a tracking system within existing resources. Oversight assumes any significant increase in the workload of the DNR would be reflected in future budget requests.

Officials from the **Department of Corrections (DOC)** assume they 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 (FY07 average of \$41.21 per inmate per day, or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender per day, or an annual cost of \$887 per offender).

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.

ASSUMPTION (continued)

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 provisions of this proposed modification to statute, DOC assumes the impact would be less than \$100,000 per year for the DOC for the first three years and over \$100,000 per year beginning in the fourth year of implementation.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSHP)** assume the provisions in Section 43.651 of the legislation would allow the MSHP to establish a fee to screen potential new user names of social networking websites, or compare its database of registered users to the list of online identifiers of persons in the state sexual offender registry. The MSHP has determined this fee would be in the amount of \$25 per request. Although the MSHP has determined the fee, there is no way to determine the number of requests that will be received. Therefore, the fiscal impact is unknown.

Oversight assumes the number of internet service providers that would check online identifiers of potential users against the sexual offender registry can not be determined. Therefore, Oversight assumes the revenues to be unknown.

Officials from the **Office of Prosecution Services (OPS)** did not respond to Oversight's request for fiscal impact. However, in response to a previous version of the proposal (SB 714, LR # 3292-03), 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.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** did not respond to Oversight's request for fiscal impact. However, in response to a similar proposal from the current session (SB 899, LR # 3860-02), officials assumed 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 \$2,500. 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 **Office of the State Public Defender (SPD)** did not respond to Oversight's request for fiscal impact. However, in response to a previous version of the proposal (SB 714, LR # 3292-03), officials assumed increasing penalties on existing crimes, or creating 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.

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 Clark County Sheriff's Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, Platte County Sheriff's Department, St. Louis County 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 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$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>
CRIMINAL RECORDS SYSTEM FUND			
<u>Revenues</u> – Missouri State Highway Patrol			
Database access fees	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON CRIMINAL RECORDS SYSTEM FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<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

This act modifies various provisions relating to sexual offenses against children:

Any person required to register as a sexual offender must provide county law enforcement with any online identifying information he or she uses. Such information shall be made available to the public on the sex offender registry website, but only through specific searches using the online identifier. The information shall not be included in a general profile of the offender. (Section 43.650)

Subject to appropriations, the Highway Patrol shall make online identifying information of registered sex offenders available to certain electronic and computer businesses to prescreen users and to compare information held by the business. The patrol shall promulgate rules regarding the release and use of online identifying information and establish a fee for such service. Information obtained by the business shall not be used for any purpose other than for prescreening users or comparing the database of registered users against the list of online identifiers of persons on the sex offender registry in order to protect children from online sexual predators. (Section 43.651)

The proposal makes attempted sexual misconduct involving a child a class D felony in the same manner as committing sexual misconduct involving a child. (Section 566.083)

The proposal prohibits certain sexual offenders who have committed an offense against a child from being present in or loitering within 500 feet of any playground or designated camping area of a state park. Violation of this provision shall be a Class A misdemeanor. (Section 566.152)

The proposal prohibits any person who pleads guilty to or is found guilty of promoting child pornography in the first degree from being eligible for probation or parole for at least three years. (Section 573.025)

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

The proposal makes possession of child pornography a class C felony unless the person possesses more than twenty still images or one film or videotape of child pornography or has previously committed this offense, in which case, the crime is a class B felony. Currently, possession of child pornography is a class D felony unless the offender has previously committed this offense, in which case, the crime is a class C felony. (Section 573.037)

FISCAL DESCRIPTION (continued)

Under this proposal, attempting to furnish pornographic materials to a minor is a class A misdemeanor in the same manner as actually furnishing the materials to a minor. (Section 573.040)

The proposal makes it a class A misdemeanor for a person in a sexually oriented business to knowingly and intentionally appear nude or to depict, simulate, or perform specified sexual activities. (Section 573.512)

The proposal makes the crime of failing to register as a sex offender a class D felony for the first offense, unless the crime for which the person must register is an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case, it is a class C felony. Currently, the crime is a class A misdemeanor, unless the aggravating circumstances exist, and it is a class D felony. (Section 589.425)

The proposal contains an emergency clause for Sections 491.075, 573.025, 573.035, and 573.037. These sections 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.

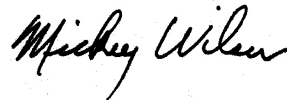
SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Public Safety
– Missouri State Highway Patrol
– Director's Office
Boone County Sheriff's Department

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NOT RESPONDING

**Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender
Clark County Sheriff's Department
Greene County Sheriff's Department
Jackson County Sheriff's Department
Platte County Sheriff's Department
St. Louis County Police Department
St. Louis Metropolitan Police Department**



Mickey Wilson, CPA
Director
February 25, 2008