

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1167-04
Bill No.: HCS for HB Nos. 600, 337 & 413
Subject: Crimes and Punishment; Energy; Law Enforcement Officers and Agencies;
 Telecommunications
Type: Original
Date: March 25, 2011

Bill Summary: This proposal is the Omnibus Public Safety bill.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Less than \$116,028)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$116,028)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Water Patrol Fund	\$0	\$0	\$0
Highway Patrol's Motor Vehicle, Aircraft, and Watercraft Revolving	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
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 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

The **Joint Committee on Public Employee Retirement (JCPER)** has reviewed this proposal and has determined an actuarial study is not needed under the provisions of section 105.660, subdivision (5).

In response to a similar proposal from this year (HB 295), officials from the **Kansas City Firefighter Retirement System** and **St. Louis Firefighter Retirement System** assumed there would be no fiscal impact to their agencies.

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Transportation** and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of assault of a utility worker - being defined as a "law enforcement officer"; false identification to a law enforcement officer - a new class B misdemeanor; or damaging a motor vehicle while making entry into it to steal it or steal items within. The proposed legislation also enhances the penalties for receiving stolen property.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding 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 SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

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 fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Corrections (DOC)** state the bill proposes to add utility workers to the list of persons who can be victims of the crimes of assault of a law enforcement officer (LEO) etc. in the first, second and third degrees. The existing penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class A felony.

Offenders charged with any of the crimes outlined in this proposal could already be charged and prosecuted pursuant to current statutes for assault.

Currently, the DOC cannot 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 direct offender cost either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each 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.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** the proposed changes would require various modifications:

Section 302.309:

- System modifications regarding the changes to Limited Driving Privileges;
- The Driver License Bureau estimates 180 hours of system testing for one Management Analysis Specialist II and one Administrative Analyst I;
- Web site changes;
- Updating office procedures;
- additional training of personnel

DOR's Drivers License Bureau (DLB) estimates;

- | | | |
|---|---|---------|
| • 1 Management Analysis Specialist II (180 hrs @ \$23) | = | \$4,140 |
| • 1 Administrative Analyst I (180 hrs @ \$16) | = | \$2,880 |
| • 1 Revenue Band Manager (160 hrs @ \$25) | = | \$4,000 |
| • 2 Management Analysis Sp (40 hrs @ \$20.13) | = | \$1,610 |
| • 1 Administrative Analyst III for web (10 hrs @ \$21.79) | = | \$ 218 |

Note: Due to required programming and testing of the Limited Driving Privilege system, DOR requests an implementation date of March 31, 2012.

Section 302.309:

This legislation removes the 21 and under age limitation which will result in an unknown increase in the number of convictions for driving while texting.

The increase in convictions will also increase the number of point warning and suspension or revocation notices issued for accumulation of points.

There are no statistics available to determine how many additional convictions the Department may be required to process; however, one FTE can process 320 convictions per day. The Department assumes that a minimum of one FTE (Revenue Processing Tech) will be needed to process the additional convictions resulting from the violation. If the volume of convictions received for processing exceeds 320 per day, then additional FTE may be required and will be requested through the appropriations process.

There are no statistics available to determine the volume of telephone calls that may be received; however, currently a Telephone Information Operator (Revenue Processing Tech) is required to handle 100 calls per day. The Department assumes that a minimum of one FTE will be needed to

ASSUMPTION (continued)

answer the additional phone calls. If the calls received for driving while texting exceeds 100 calls per day, an additional FTE may be required and will be requested through the appropriations process. DOR is unable to determine how many convictions will be received for driving while texting, therefore, the forms and postage costs for issuing the suspension or revocation notices are unknown.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state they wrote 65 texting-while-driving tickets in 2010. Of those, nine were involved in accidents.

Oversight received information that, as of January 5, 2011, the Department of Revenue (DOR) processed 56 convictions for drivers twenty-one years of age or younger text messaging while driving since the statute went into effect on August 28, 2009.

Oversight assumes, based on the information received from the Missouri State Highway Patrol and the Department of Revenue (DOR), that the number of convictions resulting from prohibiting all drivers, regardless of age, from text messaging while operating motor vehicles would not be excessive. Oversight assumes DOR could absorb the increase in work load resulting from the proposal within existing resources. If the DOR experiences an increase that would require additional funding, the DOR could request the funding through the appropriation process.

Oversight assumes any revenue impact would be minimal, and reflects no change to Total State Revenue as a result of the proposal.

Officials from the **Department of Revenue** also state their response to a similar proposal in prior years would have indicated the Department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the Department's driver license legacy systems, changes cannot be made without significant impact to the Department's resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at \$3,180. The value of the level of effort is calculated by taking 1 FTE for 120 hours

Oversight assumes some of DOR's anticipated work hours could be performed during the normal work day and not create an additional expense to their budget; therefore, Oversight will range the cost to the Department of Revenue as 'up to \$16,028' (\$4,140 + \$2,880 + \$4,000 + \$1,610 + \$218 + \$3,180).

ASSUMPTION (continued)

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state (regarding Sections 43.260 and 43.265) that prior to this legislation, the sale and purchase of watercraft would have been handled within certain funds such as the Water Patrol Fund, with smaller amounts of money from the sale of old watercraft going in and larger amounts of money for the purchase of replacement watercraft going out. This legislation would bring the Motor Vehicle, Aircraft, and Watercraft Revolving Fund into the scenario, with the proceeds of the sale now going into the revolving fund, and a corresponding partial offset to the purchase price of the new watercraft now coming from the revolving fund. The net result of this legislation to either fund (WP or Revolving Fund) would be zero, as any increase/reduction in money coming into a fund would be offset by an equal increase/reduction in money being spent from that same fund. Therefore, the Highway Patrol anticipates no fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Costs - Department of Revenue</u>			
Administrative changes to prepare for updates in the proposal	(Up to \$16,028)	\$0	\$0
<u>Costs - Department of Corrections</u>			
For incarceration or probation for offenders of the crimes within the bill	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO GENERAL REVENUE	(Less than <u>\$116,028</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

FISCAL IMPACT - State Government FY 2012 FY 2013 FY 2014
 (continued) (10 Mo.)

WATER PATROL FUND

Loss - proceeds from sale of watercraft, watercraft motors and trailers now deposited into the Highway Patrol's Motor Vehicle, Aircraft, and Watercraft Revolving Fund (Section 43.265) (Unknown) (Unknown) (Unknown)

Savings - Less money in the fund to be spent on watercraft, watercraft motors and trailers Unknown Unknown Unknown

ESTIMATED NET EFFECT TO THE WATER PATROL FUND **\$0** **\$0** **\$0**

HIGHWAY PATROL'S MOTOR VEHICLE, AIRCRAFT, AND WATERCRAFT REVOLVING FUND

Income - proceeds from sale of watercraft, watercraft motors and trailers which were previously deposited into the Water Patrol Fund (Section 43.265) Unknown Unknown Unknown

Costs - of watercraft, watercraft motors and trailers that previously were purchased out of the Water Patrol Fund (Unknown) (Unknown) (Unknown)

ESTIMATED NET EFFECT TO THE HIGHWAY PATROL'S MOTOR VEHICLE, AIRCRAFT, AND WATERCRAFT REVOLVING FUND **\$0** **\$0** **\$0**

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<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

STATE HIGHWAY PATROL (Sections 43.260, 43.265, and 306.130, RSMo) - Currently, the State Highway Patrol is authorized to sell surplus patrol motor vehicles. The substitute allows the patrol to also sell surplus watercraft, watercraft motors, and trailers. The Highway Patrol's Motor Vehicle and Aircraft Revolving Fund is renamed the Highway Patrol's Motor Vehicle, Aircraft, and Watercraft Revolving Fund and allows it to be used to purchase watercraft, watercraft motors, and trailers as well as vehicles.

INTOXICATION-RELATED TRAFFIC OFFENSES (Sections 302.309 and 577.023) - Currently, courts and the Department of Revenue are authorized to issue limited driving privileges to allow repeat offenders of alcohol-related traffic offenses to drive a motor vehicle in connection with a business, occupation, or employment; seek medical treatment; attend school; attend alcohol or drug treatment programs; seek the required services of a certified ignition interlock device provider; or any other circumstance the court or the department director finds would create an undue hardship if not allowed. The substitute removes the issuance of limited driving privileges for the purpose of seeking medical treatment or for any other circumstance that the court or department director finds would create an undue hardship if not allowed in order for Missouri to comply with federal law for the purpose of receiving transportation funding.

The substitute also increases from 30 days to 45 days the length of time that a person convicted of an alcohol-related offense must have his or her driver's license suspended or revoked before being eligible for a limited driving privilege. Currently, prior and persistent offenders are allowed to participate in and successfully complete a program established by a DWI court or other court-ordered treatment program in lieu of imprisonment or community service. The substitute requires a prior or persistent offender to perform a specified amount of community service along with completing a DWI court-ordered or other court-ordered treatment program in order to comply with federal law.

FISCAL DESCRIPTION (continued)

TEXT MESSAGING WHILE DRIVING (Section 304.820) - Currently, an individual 21 years of age or younger is prohibited from sending, reading, or writing a text message or electronic message from a hand-held electronic wireless communications device while operating a moving motor vehicle on any highway in this state. The substitute prohibits anyone, regardless of age, from these activities unless the device being used is equipped with technology allowing for voice-recognition hands-free texting and is being used in that manner.

ENDANGERMENT OF EMERGENCY PERSONNEL (Sections 304.890, 304.892, and 304.894) - The substitute specifies that a person will be guilty of the crime of endangerment of emergency personnel or emergency responder if, while in an active emergency zone as defined in the substitute, the person:

- (1) Exceeds the posted speed limit by 15 miles per hour or more;
- (2) Commits a passing violation;
- (3) Fails to stop for an active emergency zone flagman or emergency personnel or fails to obey erected traffic control devices or personnel in the active emergency zone;
- (4) Drives through or around an active emergency zone by using any lane not clearly designated for that purpose;
- (5) Physically assaults, attempts to assault, or threatens to assault an emergency responder in an active emergency zone with a vehicle or other item;
- (6) Intentionally strikes, moves, or alters barrels, barriers, signs, or other devices erected to control the flow of traffic for any reason other than to avoid an obstacle, an emergency, or to protect the health and safety of any person; or
- (7) Commits certain specified traffic offenses for which points may be assessed against a person's driver's license.

Any person who commits the crime of endangerment of an emergency personnel or emergency responder will be subject to a fine of up to \$1,000 and have four points assessed against his or her driver's license in addition to any other penalty authorized by law. If the offense results in the injury or death of an emergency responder or emergency personnel, the person will be guilty of aggravated endangerment of an emergency responder and will be subject to a fine of up to \$5,000 for an injury and \$10,000 for a death with 12 points assessed against the person's driver's license.

The substitute requires a court to assess a fine of \$35 in addition to any other authorized fine to a person who is convicted or who pled guilty to a first offense for a moving violation if the offense occurred within an active emergency zone. For a subsequent conviction or plea of guilty, the court must assess a \$75 fine in addition to any other authorized fine. Upon the first conviction or plea of guilty by any person for a speeding or a passing violation, a court must assess a fine of

FISCAL DESCRIPTION (continued)

\$250 in addition to any other authorized fine if the offense occurred within an active emergency zone and at the time the speeding or passing violation occurred there were emergency personnel or emergency responders in the zone. For a subsequent conviction or plea, the court must assess a fine of \$300 in addition to any other fine authorized by law. No person can be assessed an additional fine if the area is not visibly marked by emergency personnel.

ASSAULT OF A UTILITY WORKER (Sections 565.081 - 565.083) - The substitute expands the crime of assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction or work zone, or probation and parole officer in the first, second, and third degrees to include a utility worker and repeals a duplicate provision currently in statute regarding this crime in the second degree.

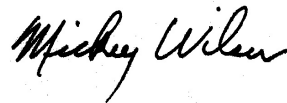
FIRST DEGREE PROPERTY DAMAGE (Section 569.100) - The crime of property damage in the first degree is revised to include when a person knowingly damages a motor vehicle of another while making entry into the vehicle for the purpose of committing the crime of stealing or the damage occurs while committing the crime of stealing within the vehicle. Anyone who commits this crime will be guilty of a class C felony unless it is a subsequent violation in which case he or she will be guilty of a class B felony.

RECEIVING STOLEN PROPERTY (Section 570.080) - The substitute revises the punishment for the crime of receiving stolen property, a class A misdemeanor, unless the value of the property or services stolen is \$500 or more but less than \$25,000 or a person physically takes the property from the victim or the property consists of certain specified items, the person will be guilty of a class C felony. The receipt of any item of property or services that exceeds \$500 may be considered a separate felony and may be charged in separate counts. Any person with a prior conviction for receiving stolen livestock or captive wildlife who violates those same provisions a subsequent time when the value of the animal stolen exceeds \$3,000 will be guilty of a class B felony and will be required to serve at least 80% of any sentence imposed before he or she is eligible for probation, parole, conditional release, or other early release by the Department of Corrections. Anyone committing an offense in which the value of the property or services is an element will be guilty of a class B felony if the value equals or exceeds \$25,000.

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 Public Safety
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections
Department of Revenue
Department of Transportation
Office of the Secretary of State
Office of the Attorney General
Joint Committee on Public Employee Retirement
St. Louis Firefighter Retirement System
Kansas City Firefighter Retirement System



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