

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1204-03
Bill No.: Perfected HCS for HB 436
Subject: Firearms and Fireworks; Federal - State Relations
Type: Original
Date: April 17, 2013

Bill Summary: This proposal establishes the Second Amendment Preservation Act which rejects all federal acts which infringe on Missouri citizen's rights under the Second Amendment.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
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 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
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 2014	FY 2015	FY 2016
Local Government	Minimal	Minimal	Minimal

FISCAL ANALYSIS

ASSUMPTION

In response to a previous version of this proposal, officials from the **Attorney General's Office (AGO)** assumed that any potential costs arising from this proposal could be absorbed with existing resources. If there is significant litigation, AGO may seek additional appropriations.

Officials from the **Office of the State Courts Administrator** and **Department of Public Safety - Missouri Highway Patrol** each assume the proposal would not fiscally impact their respective agencies.

House Amendment 1 - CCW from 21 to 19:

In response to a similar proposal from this year (HB 92), Oversight received the following responses:

Officials from the **Department of Revenue (DOR)** state Section 571.101 changes the minimum age for a concealed carry weapons endorsement from 21 to 19 years of age. Additionally, this legislation changes the minimum age requirement for a spouse of a member of the military stationed in Missouri to be eligible for concealed carry endorsement from 21 to 19 years of age.

DOR states the proposed changes to this section will require the Department to:

- Draft updates to web site information related to concealed carry endorsement issuance;
- Update office procedures;
- Modify forms and notices;
- Work with the Sheriffs' Association to ensure all sheriff agencies are notified of the minimum age change; and
- Develop requirements and testing of modifications to the Missouri Electronic Driver License Central Issuance system and supporting applications to implement the required age edits for non-military from 21 to 19 years of age.

For FY 2014, DOR assumes the following expense withing their Driver License Bureau:

Administrative Analyst	120 hrs @ \$24 (1 ½) per hr =	\$2,880
Management Analysis Spec II	130 hrs @ \$23 per hr =	\$2,990
Revenue Band Manager	10 hrs @ \$30 per hr =	<u>\$ 300</u>
		\$6,170

RS:LR:OD

ASSUMPTION (continued)

DOR also assumes the following expense within their Personnel Services Bureau - Forms, procedure and web updates:

Administrative Analyst III	10 hrs @ \$22 per hr =	\$ 220
Management Analysis Spec I	80 hrs @\$21 per hr =	<u>\$1,680</u>
		\$1,900

DOR also assumes the proposal will have the following impact on the Office of Administration - Information Technology Services Division (OA-ITSD):

Modification of minimum age edit in driver license issuance system. Programming is estimated at 40 hours:

1 CIT at \$27.05 per hr x 40 hrs = \$1,082

In summary, DOR assumes a cost of \$9,152 (\$6,170 + \$1,900 + \$1,082) in FY 2014 to implement the changes from this proposal.

DOR also states the change in the minimum age requirement may increase the volume of concealed carry weapon endorsement applicants, which may increase revenue for the driver license or nondriver license fees. The number of applicants is unknown, but expected to be minimal.

Oversight assumes DOR is provided with core funding to handle a certain amount of legislative activity each year. Oversight assumes DOR could absorb the costs related to this proposal within their annual budget. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

Officials from the **Department of Public Safety - Missouri Highway Patrol** assume the proposal would not fiscally impact their agency.

Officials from the **Boone County Sheriff's Department** state revenues will be generated by lowering the eligibility age from 21 to 19. It is unknown how many persons 19 or 20 years of age will apply for CCW permits with the passage of this legislation. Therefore, an accurate estimation of how much revenue would be generated cannot be provided.

Officials from the Sheriff Offices of **Buchanan County, Jackson County and Platte County** did not respond to our request for fiscal impact.

RS:LR:OD

ASSUMPTION (continued)

Applicants for a concealed carry permit must submit a nonrefundable fee not to exceed \$100 to the Sheriff to cover various costs included in the application process. **Oversight** assumes a minimal number of new applications will result from this bill and; therefore, will reflect a 'Minimal' amount of fee revenue for the counties.

House Amendment 2 - Concealed Carry holders to open carry:

In response to a similar proposal from this year (HB 420), **Oversight** received the following responses:

Officials from the **Department of Public Safety - Missouri Highway Patrol, Department of Revenue, Boone County Sheriff's Department, and Cole County Sheriff's Department** each assume the proposal would not fiscally impact their respective agencies.

House Amendment 3 - Firearm owner information:

In response to a similar proposal from this year (HB 350), **Oversight** received the following responses:

Officials from the **Office of the State Public Defender, Office of the State Courts Administrator, Department of Public Safety - Missouri Veterans Commission, Office of Prosecution Services,** and the **Department of Health and Senior Services** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state This bill, if passed into law, prohibits the publication of any identifying information of gun owners and prohibits health care professionals from being required to inquire, document or disclose a patient's status as a gun owner.

Penalty provisions for violations, the component of the bill to have potential fiscal impact for DOC, is for a class A misdemeanor. 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 operational cost through supervision

ASSUMPTION (continued)

provided by the Board of Probation and Parole (FY12 average of \$4.960 per offender, per day, or an annual cost of \$1,810 per offender).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

House Amendment 1 to House Amendment 4 - Firearm usage in crimes:

In response to a similar proposal from this year (HB 485), **Oversight** received the following:

Officials from the **Department of Public Safety - Missouri Highway Patrol** and the **Office of the State Courts Administrator** 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 effective representation for any new cases arising where indigent persons are faced with the enhanced penalties for unlawful possession or use of a firearm during the commission of a felony when prior felony offenders possess or use a firearm during a subsequent felony offense.

If this legislation passes, it will have a huge impact on our clients in terms of years in prison and on the Department of Correction. Under our current protocol we weight all non-sex, non-homicide the felonies the same, no matter the degree and no matter the number of counts, then under our protocol there would be no measurable fiscal impact, though certainly it would cause some additional work by our attorneys since in general the more serious the punishment the more work it takes to resolve a case, both in terms of investigation, trial, and sentencing.

Therefore, the State Public Defender would calculate little or no fiscal impact, except for those few jurisdictions that might charge this as an additional case rather than an additional count.

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 effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the penalty provision component of this bill resulting in potential fiscal impact for DOC, is for unclassified felonies punishable by up to life imprisonment. 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 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 (FY12 average of \$17.059 per offender, per day, or an annual cost of \$6,227 per inmate) or through supervision provided by the Board of Probation and Parole (FY12 average of \$4.960 per offender, per day, or an annual cost of \$1,810 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.

Officials from the Office of Prosecution Services did not respond to our request for fiscal impact.

House Amendment 4 - School protection officers:

In response to a similar proposal from this year (HB 276), **Oversight** received the following responses:

According to officials from the **Department of Elementary and Secondary Education**, there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Corrections (DOC)** state the penalty provisions for violations, the component of the proposed legislation to have potential fiscal impact for DOC, is for a class A misdemeanor. Currently, the DOC cannot predict the number of new commitments

ASSUMPTION (continued)

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 supervision provided by the Board of Probation and Parole (FY12 average of \$4.96 per offender, per day or an annual cost of \$1,810 per offender).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of State Courts Administrator, Department of Public Safety - Missouri State Highway Patrol, Office of State Public Defender, Parkway School District, Jefferson City Police Department, Springfield Police Department, and the Boone County Sheriff's Department** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Prosecution Services** did not respond to a request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE			
<u>Costs - Department of Corrections</u>			
Increased incarceration / supervision costs - HA 1 to HA 4 §571.018	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
COUNTIES			
<u>Income</u> - to the Sheriffs' Revolving Funds for expanding the concealed carry permit HA1 §§ 571.030 - 571.571.117	<u>Minimal</u>	<u>Minimal</u>	<u>Minimal</u>
ESTIMATED NET EFFECT TO COUNTIES	<u>Minimal</u>	<u>Minimal</u>	<u>Minimal</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

House Amendment 1 changes the minimum age at which a person can be issued a concealed carry endorsement from 21 years of age to 19 years of age.

House Amendment 1 to House Amendment 4 specifies that a person who is found guilty or pleads guilty or nolo contendere to a prior felony offense and who commits a subsequent felony offense in which the person possesses, displays, brandishes, threatens to use, attempts to use, or discharges any firearm will be guilty of the offense of unlawful possession or use of a firearm during the commission of a felony. The offense will be in addition to and not in lieu of any underlying felony offense or other offense for which the person may be charged.

The bill specifies that a person who commits the offense by possessing a firearm during the commission of a felony will be subject to 10 years imprisonment; by displaying, brandishing, threatening to use, or attempting to use a firearm during the commission of a felony will be subject to 20 years imprisonment; and by discharging a firearm during the commission of a felony will be subject to a term of life imprisonment. The terms of imprisonment must be imposed consecutively to any other terms of imprisonment imposed for any other felony offense.

The bill exempts law enforcement officers or United States military personnel who are performing their lawful duties or who are traveling to or from their places of employment or assignment from these provisions.

FISCAL DESCRIPTION (continued)

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

Attorney General's Office
Department of Public Safety
Office of the State Courts Administrator
Department of Revenue
Office of the State Public Defender
Office of Prosecution Services
Department of Health and Senior Services
Department of Corrections
Department of Elementary and Secondary Education
Boone County Sheriff's Department
Cole County Sheriff's Department
Jefferson City Police Department
Springfield Police Department
Parkway School District



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