

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5563-08
Bill No.: Truly Agreed To and Finally Passed CCS for SS for SCS for HCS for HB Nos.
 1665 & 1335
Subject: Business and Commerce; Crimes and Punishment
Type: Original
Date: June 5, 2014

Bill Summary: This proposal modifies provisions concerning the administration of justice.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Less than \$100,000)	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
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 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§57.015, 57.201, 57.220, 57.250 and 544.216 - Modifies the provisions regarding sheriffs and other law enforcement officers, weapons, and concealed carry permits

Officials from the **Department of Public Safety's Director's Office** and the **Missouri Highway Patrol**, the **Department of Corrections**, the **Office of the State Public Defender** and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

In response to similar legislation (SB 745), officials at the **Cole County Sheriff's Department** and the **Columbia Police Department** each assumed no fiscal impact from this proposal.

Officials from the **Office of the State Courts Administrator** state there may be some, unquantifiable at this time, impact. Any significant changes will be reflected in future budget requests.

§407.1150 - Unlawful to publish criminal record information to solicit a fee

Officials at the **Office of State Public Defender (SPD)** could not assume existing staff will provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime of publishing or disseminating a criminal record information, a new Class A misdemeanor.

While the number of new cases 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 cases where the right to counsel attaches.

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

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

ASSUMPTION (continued)

Officials at the **Department of Social Services** assume no fiscal impact from this proposal. Employees of the Division of Youth Services do not take, nor disseminate, booking photographs. Children are referred to the juvenile justice system only after an arrest has been made and processed by a law enforcement agency.

Officials at the **Department of Public Safety - Missouri Highway Patrol** and the **Office of the State Courts Administrator** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **Office of Prosecution Services (OPS)** assume this proposal would not fiscally impact OPS. However, the creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Officials at the **Springfield Police Department** and the **University of Missouri System** each assume there is no fiscal impact to their respective organizations from this proposal.

In response to a previous version, officials at the **Cole County Sheriff's Department, St. Charles Police Department, the Columbia Police Department, Boone County Sheriff's Department, Jackson County Sheriff's Department, the Jefferson City Police Department** and the **Eureka Fire Protection District** each assumed no fiscal impact to their respective organizations from this proposal.

§483.140 - Maintaining the rolls and records of the court

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

§610.120 - Retention of closed records:

Officials at the **Administrative Hearing Commission, the Department of Economic Development, the Department of Elementary and Secondary Education, the Department of Labor and Industrial Relations, the Department of Mental Health, the Department of Natural Resources, the Department of Revenue, the Department of Higher Education, the Department of Health and Senior Services, the Department of Social Services, the Joint Committee on Administrative Rules, the Joint Committee on Legislative Research** and the **Office of Administration** each assume there is no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

§610.122 - Expungement of an arrest record

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

§1 - Courts that require e-filing:

Officials at the **Office of the State Courts Administrator (CTS)** state the legislation allows all courts that allow mandatory e-filing to accept, file, and docket a notice of entry of appearance filed by an attorney that was sent by fax or regular file. This will require the purchase of at least 200 fax machines at a cost of \$150 each or \$30,000 plus additional unknown costs for clerk time as well as postage and additional paper for a total cost of over \$100,000.

Oversight assumes that CTS may incur additional expense in FY 2015 of under \$100,000. For fiscal years 2016 and beyond, Oversight assumes CTS is provided with core funding each year and can absorb the cost of clerk time and office supplies. Should they need additional funding in the future, they can seek funding through the appropriation process.

Legislation as a whole

Officials at **Platte County**, the **Mississippi County Recorder of Deeds** and the **St. Louis County Board of Election Commission** each assume no fiscal impact to their respective organizations from this proposal.

Officials from the Buchanan County Sheriff's Department, Clark County Sheriff's Department, Independence Police Department, Platte County Sheriff's Department, St. Joseph Police Department, St. Louis County Police Department and the St. Louis Metropolitan Police Department did not respond to **Oversight's** request for fiscal impact.

Officials at the following counties: Andrew, Audrain, Barry, Bates, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Pulaski, Scott, St. Charles, St. Francois, St. Louis, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
 GENERAL REVENUE FUND			
<u>Costs</u> - CTS - additional costs to accommodate Section 1	(Less than <u>\$100,000</u>)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	<u>\$0</u>	<u>\$0</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<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 bill changes the laws regarding publishing of criminal records. The bill changes references in Sections 57.015, 57.220, and 57.250, RSMo, to include the term “deputy sheriff” as defined in Section 57.015.

BOOKING PHOTOGRAPHS (Section 407.1150)

The bill specifies that any person who publishes a person's arrest booking photograph on his or her website for purposes of commerce must be deemed to be transacting business in this state and requires that person to remove the photo from the website, without fee or compensation, within 30 days of a written request from the subject in the photograph. The request must include the subject individual's name, date of birth, date of arrest, and the name of the arresting law enforcement agency and must be transmitted via certified mail, return receipt requested, or statutory overnight delivery to the registered agent, principal place of business, or primary residence of the person who published the website.

FISCAL DESCRIPTION (continued)

A person who willfully and knowingly engages in any act or practice that fails to comply with these provisions will be guilty of a class A misdemeanor. Any consumer who suffers a loss or harm as a result of any unlawful acts as set out in these provisions may be awarded an amount equal to \$10,000 or actual and punitive damages, whichever is greater, and in addition may be awarded reasonable attorney fees, court costs, and any other remedies provided by law. Humiliation or embarrassment must be adequate to show that the plaintiff has incurred damages; however, no physical manifestation of either humiliation or embarrassment is necessary for damages to be shown.

EXPUNGEMENT OF ARREST RECORD (Section 610.122)

The bill adds provisions for when an individual's record of arrest may be expunged under Section 43.503. A record may be expunged if the court determines the individual was arrested for, or was subsequently charged with, a misdemeanor offense under Chapter 303 or any moving violation under Section 302.010, except for any intoxication related traffic offense and:

- (a) Each offense or violation related to the arrest was subsequently nolle prossed or dismissed, or the accused was found not guilty of each offense or violation; and
- (b) The person does not have a commercial driver's license and was not operating a commercial motor vehicle at the time of the arrest.

A record of arrest must only be eligible for expungement if the subject of the arrest has no prior or subsequent misdemeanor or felony convictions; and there is no civil action pending relating to the arrest or the records sought to be expunged.

ENTRY OF APPEARANCE (Section 1)

The bill requires all courts that process documents via mandatory e-filing to accept, file, and docket a notice of entry of appearance filed by an attorney in a criminal case if the filing document is no longer than one page and was sent by fax or regular mail. These provisions will expire on December 31, 2016.

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 Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
Columbia Police Department
Springfield Police Department
Department of Public Safety
 Missouri Highway Patrol
 Director's Office
Office of the Attorney General
St. Charles Police Department
Boone County Sheriff's Department
Cole County Sheriff's Department
Jefferson City Police Department
Eureka Fire Protection District
Jackson County Sheriff's Department
Department of Corrections
Department of Social Services
University of Missouri System
Administrative Hearing Commission
Department of Economic Development
Department of Elementary and Secondary Education
Department of Labor and Industrial Relations
Department of Mental Health
Department of Natural Resources
Department of Revenue
Department of Higher Education
Department of Health and Senior Services
Joint Committee on Administrative Rules
Joint Committee on Legislative Research
Department of Social Services
Office of Administration
Missouri Department of Transportation
Office of the Secretary of State

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Page 9 of 9

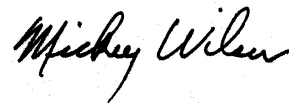
June 5, 2014

SOURCES OF INFORMATION (continued)

Platte County

Mississippi County Recorder of Deeds

St. Louis County Board of Election Commission



Mickey Wilson, CPA

Director

June 5, 2014

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