

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1716-02
Bill No.: SCS for SB 304
Subject: Courts; Crimes and Punishment; Criminal Procedure; Evidence; Law Enforcement Officers and Agencies
Type: Original
Date: April 2, 2015

Bill Summary: This proposal modifies provisions relating to custodial interrogations of criminal suspects.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety (Missouri Highway Patrol and Capitol Police)**, the **Office of the State Courts Administrator**, and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the State Public Defender** state although this bill may have no impact on the number of cases for which the Public Defender System is required to provide representation, the changes in the indicated procedures may impact the necessary workload to defend the indigent accused.

In response to a previous version of the bill, officials from the **Boone County Sheriff's Department**, and the **Springfield Police Department** each assumed the proposal would not fiscally impact their respective agencies.

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

In response to a previous version of the proposal, officials from the **Cole County Sheriff's Department** stated the recording equipment is a huge cost for many agencies with very limited budgets. Also, the methodology of storing and retrieving the data is complex and quite expensive. In addition, unless all contact is recorded, spontaneous utterances will be missed and made unusable.

In response to a previous version of the proposal, officials from the **Columbia Police Department** stated the bill would have extensive fiscal impact related to purchasing and maintaining the recording equipment, storage of video footage in accordance with Missouri Sunshine law, fulfilling sunshine requests to include redacting appropriate footage and management of records. Exact costs can't be calculated.

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

Oversight will reflect an unknown cost to local police departments and sheriff's departments to comply with this proposal, starting in January 2017.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
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**POLICE DEPARTMENTS /
SHERIFFS DEPARTMENTS**

<u>Costs</u> - for recording / storage space requirements	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT TO POLICE DEPARTMENTS / SHERIFFS DEPARTMENTS	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Current law requires custodial interrogations be recorded when feasible. This act requires law enforcement agencies to document instances when recording an interrogation is not feasible.

Under current law, custodial interrogation is defined as the questioning of a person who is under arrest. This act specifies that custodial interrogation is the questioning of a person suspected of committing a crime who is in custody in a fixed place of detention.

Current law allows law enforcement officers to not record custodial interrogations when the suspect requests the interrogation not be recorded, exigent circumstances prevent recording, when the suspect makes spontaneous statements, or the equipment fails or is not available at the location of the interrogation. The exemption for instances in which the suspect requests the interrogation not be recorded is repealed under this act. In addition, this act provides that, if the equipment fails or is not available, the law enforcement agency must demonstrate a good faith effort to maintain recording equipment for interrogations to be in compliance with the statute. If the interrogation is not recorded due to exigent circumstances or because the statements were spontaneous, the law enforcement agency must make a written record detailing the circumstances surrounding the failure to record.

In addition, this act repeals the current penalty for failure to comply with the statute that allows the governor to withhold funding from the noncompliant law enforcement agency and a provision that prohibits compliance with the statute from being raised in a criminal trial.

The jury must be instructed that it may consider credible evidence of compliance or noncompliance with the recording requirements to determine whether the defendant's statement was voluntary and reliable.

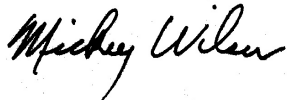
This act also requires the preservation of recordings of interrogations until the offender can no longer appeal a conviction or when prosecution of the offense is barred by law.

The provisions of this act take effect January 1, 2017.

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 Prosecution Services
Attorney General's Office
Office of the State Public Defender
Office of the State Courts Administrator
Boone County Sheriff's Department
Cole County Sheriff's Department
Columbia Police Department
Springfield Police Department



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April 2, 2015

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April 2, 2015