

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5006-01
Bill No.: SB 671
Subject: State Attorney General; Crimes and Punishment; Law Enforcement Officers and Agencies
Type: Original
Date: February 29, 2016

Bill Summary: This proposal modifies provisions relating to racial profiling in policing.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$111,440)	(\$114,730)	(\$115,970)
Total Estimated Net Effect on General Revenue	(\$111,440)	(\$114,730)	(\$115,970)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Conservation Commission	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	1.5 FTE	1.5 FTE	1.5 FTE
Total Estimated Net Effect on FTE	1.5 FTE	1.5 FTE	1.5 FTE

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 2017	FY 2018	FY 2019
Local Government	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state this bill requires the collection of data for "Terry" stops or pedestrian stops that are currently not collected in the field. Currently, the officers report racial profiling data on traffic stops. The "Terry" stops would require a change in the current FATPOT AFR to capture the data from the officers and be able to process an output report with this data. This change to the FATPOT AFR is the reason for the fiscal impact. The cost breakdown is in two parts, management of the project (\$850) and the actual programming of the changes (\$3,001). Each change requires documentation and tracking of work (management), the actual programming is covered in the analyst costs. The MHP assumes a cost of \$3,851 to the Highway Fund from this proposal.

Oversight assumes the MHP could absorb this amount within their current appropriation levels.

Officials from the **Attorney General's Office (AGO)** state the bill would impact their agency in the following

1. This bill would require the AGO to change the current online reporting system for racial profiling data to include newly required information;
2. The bill would require the AGO to modify its contract with the analysts who calculate the disparity indices to account for the new data and calculations required;
3. In certain circumstances, the AGO would receive racial profiling data from law enforcement agencies more than once per year; and
4. If those circumstances persist, "the Attorney General shall require changes in the agency's policies and practices, including techniques for identifying problem officers, requirements that an officer's profiling statistics be a part of the record used to evaluate promotions and reassignments, training of supervisors in the skills necessary to eliminate bias in policing, and increasing the quality and quantity of officer training related to bias in policing." The AGO may seek additional appropriations for an additional FTE if the AGO needs to oversee the changes required of non-compliant agencies.

The AGO would require an additional temporary 0.50 FTE Information Systems Specialist for one year to update the racial profiling reporting system to accommodate the additional information that must be reported under the bill. The AGO assumes a cost of approximately \$42,000 per year for this additional .5 FTE.

ASSUMPTION (continued)

Officials from the **Department of Natural Resources (DNR)** state the proposal would require all uniformed law enforcement offices to use a video camera while on duty to record any interaction between a law enforcement officer and a member of the public and to preserve the recording for a minimum of 30 days. It also requires certain law enforcement vehicles to be equipped with car video.

Missouri State Parks employs 45 State Park Rangers throughout the State Park System. We would purchase body camera and car video equipment for all Park Rangers. To ensure continual compliance, we assume our initial order of equipment would need a 10% contingency to ensure sufficient equipment is on hand for breakage. Additionally, we anticipate a replacement cycle of 33% per year for the body cameras. The current model of body camera is on a state agency contract for \$795. The current price for the model of car video equipment being considered is \$5594 per car. We also need to purchase back up batteries for each body camera to ensure that our Rangers do not run out of battery during their shift. We assume the same replacement cycle for the back-up batteries. The replacement cycle for the car video equipment will be outside of the three years included in this fiscal note response.

DNR also states that various sections of this bill require data to be collected and analyzed by law enforcement agencies in order to predict and intervene on officer behavior. We have determined that an existing system that the Missouri State Ranger Program is using under a Memorandum of Understanding with the Missouri State Highway Patrol will be modified to meet these reporting needs. The reprogramming costs are estimated to be \$3,807. The Ranger Program will need one FTE (Human Relations Officer I at \$38,928 annually) in order to review the reports created by the modified system to analyze, predict, and intervene when patterns of profiling are discovered per 590.650.8.

In order to have the data necessary for the input into the system and submission to the Attorney General's Office, new Traffic Stop forms will need to be printed. We estimate needing 5,000 forms annually.

The increased annual training costs are estimated to be \$100 per officer for 45 officers.

The time and cost for the Missouri State Parks to train and document new procedures (downloading, monitoring, accessing for authorized used, etc.) for the use of the cameras and racial profiling intervention will be absorbed by current staff time and current budget funds.

Oversight notes that new subdivision 590.650.6 (d) requires each law enforcement agency to adopt a detailed written policy that shall include a requirement that peace officers use electronic

ASSUMPTION (continued)

recording devices *available in their agencies* (emphasis added) and receive training on the use and maintenance of the devices. Oversight assumes this does not require law enforcement agencies to purchase recording devices such as body cameras, only that if the agency has such recording devices, the law enforcement agency shall adopt a policy requiring their proper use.

Officials from the **Missouri Department of Conservation** assume an unknown negative fiscal impact, but likely greater than \$100,000 due to increase in paperwork required for a reportable contact with a "pedestrian."

Officials from the **Office of the State Courts Administrator** and the **Department of Social Services - State Technical Assistance Team** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Springfield Police Department** assume added costs to the departments from this bill.

Officials from the **Cole County Sheriff's Department** state this requires developing a new profiling form and a new training component. The first year will have a significant cost for statewide training module and overtime for class attendance.

Officials from **St. Louis County** state, if passed, this bill would cause an undetermined increase in cost. The bill requires additional data collection be added to racial profiling forms that officers currently complete for traffic stops. The bill also requires that the same information be completed for all pedestrian stops. The increase in time spent on paperwork and/or overtime that would be used to provide officers with the time to accurately complete the paperwork is foreseeable. The analysis of the data would then take additional time and cost possibly including additional data analysis programs. Although St. Louis County appears to meet many of the training standards in the bill, there is an additional standard that supervisors must attend annual training on the promotion of fair and impartial policing which would be an additional financial responsibility outside of the current provided training.

There is also a portion of the bill which mentions body cameras, however the bill does not specify if the Department would be required to purchase body cameras for every officer, or if Departments are just required to have policy if they already own body cameras. If the wording of the bill means body cameras themselves are not required, no additional fiscal impact to St. Louis County would occur. If the wording of the bill is determined to mean the Department has to purchase body cameras, the fiscal impact would be very significant. The associated costs would be: body cameras, body camera accessories, electronic storage for video, upgrading of precincts

ASSUMPTION (continued)

to allow video uploading and storage, additional IT positions for support and upkeep, and any future maintenance.

Officials from the Boone County Sheriff's Office, Buchanan County Sheriff's Office, Cass County Sheriff's Office, Clark County Sheriff's Office, Columbia Police Department, Independence Police Department, Jefferson City Police Department, Platte County Sheriff's Office, St. Charles Police Department, St. Joseph 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 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>Costs - AGO</u>			
Personal Service (0.5 FTE)	(\$21,673)	(\$26,268)	(\$26,530)
Fringe Benefits	(\$10,126)	(\$12,222)	(\$12,294)
Expense and Equipment	(\$7,401)	(\$4,417)	(\$4,528)
<u>Total Costs - AGO</u>	(\$39,200)	(\$42,907)	(\$43,352)
FTE Change - AGO	0.5 FTE	0.5 FTE	0.5 FTE
<u>Costs - DNR</u>			
Personal Service (1 FTE)	(\$32,440)	(\$39,317)	(\$39,710)
Fringe Benefits	(\$17,273)	(\$20,833)	(\$20,941)
Expense and Equipment	(\$22,527)	(\$11,673)	(\$11,967)
<u>Total Costs - DNR</u>	(\$72,240)	(\$71,823)	(\$72,618)
FTE Change - DNR	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$111,440)</u>	<u>(\$114,730)</u>	<u>(\$115,970)</u>
Estimated Net FTE Change for General Revenue	1.5 FTE	1.5 FTE	1.5 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
CONSERVATION COMMISSION			
<u>Costs</u> - MDC - to implement the requirements in the proposal	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE CONSERVATION COMMISSION	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
LOCAL LAW ENFORCEMENT AGENCIES			
<u>Costs</u> - to implement the provisions related to racial profiling	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO LOCAL LAW ENFORCEMENT AGENCIES	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</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 creates definitions for "benchmark", "biased policing", "contraband", "disparity index", "hit rate", "law enforcement activity", and "pedestrian stops" for purposes of a statute requiring the reporting of certain information regarding stops by law enforcement officers.

Under current law, law enforcement officers must report certain information regarding motor vehicle stops, which is then analyzed by the Attorney General and released in an annual report. This act requires law enforcement officers to also report certain information regarding pedestrian stops and modifies the information that must be reported by law enforcement officers.

FISCAL DESCRIPTION (continued)

Under this act, no information revealing the identity of any individual law enforcement officer may be contained in the report of motor vehicle and pedestrian stops provided to the Attorney General.

This act specifies that the Attorney General must analyze the annual reports from law enforcement agencies using best practices and include a meaningful benchmark against which to measure data. A list of suggested benchmark measures is provided.

Current law requires law enforcement agencies to adopt a policy on race-based traffic stops that contains certain elements and provides that the Governor may withhold state funds from noncompliant agencies. This act requires each law enforcement agency to adopt a detailed written policy and changes the provisions that must be included in the policy. The Governor must withhold state funds if the law enforcement agency does not report or submits incomplete reports.

Under this act, each law enforcement agency must annually review the data collected by their officers and the report of the Attorney General to determine whether individual officers in the agency have a pattern of stopping, searching, or arresting minorities. If the review determines there is a pattern of disparity, the agency must require an investigation to determine whether the agency or its officers routinely engage in biased policing. The agency must provide appropriate counseling and training of officers found to have engaged in biased policing within 90 days of the review and the officers must be removed from patrol until completion of the counseling and training.

This act requires each law enforcement agency to create a community and law enforcement partnership.

Any law enforcement agency that reports a stop or consent search disparity index for any minority group that is one standard deviation above the corresponding statewide indices for that same group for three consecutive years is subject to a review period for three years. During the review period, the agency must provide semi-annual reports to the Attorney General concerning stop information and a narrative describing the efforts of the agency to address racial disparities in stops and searches. If the agency's disparity indices remain one standard deviation or more above the statewide indices in the second year of review, the Attorney General must require changes in the agency's policies and practices. If the agency's disparity indices remain one standard deviation or more above the statewide indices in the third year of review, the agency must lose state funds and the Peace Officer Standards and Training Commission must review the agency to determine whether the agency should be decertified.

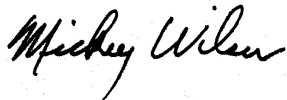
FISCAL DESCRIPTION (continued)

This act provides that violation of the racial profiling law is automatic grounds for civil suit by anyone claiming racial profiling by law enforcement. In addition, law enforcement agencies and peace officers are not immune to civil litigation or generally applicable damages or remedies.

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
Department of Natural Resources
Missouri Department of Conservation
Department of Social Services
Office of the State Courts Administrator
Springfield Police Department
Cole County Sheriff's Office
St. Louis County



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February 29, 2016

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