

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0092-01
Bill No.: SB 101
Subject: Alcohol; Children and Minors; Crimes and Punishment
Type: Original
Date: December 20, 2016

Bill Summary: This proposal increases the penalties for knowingly allowing a minor to drink or possess alcohol or failing to stop a minor from drinking or possessing alcohol

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|-------------------|-------------------|-------------------|
| FUND AFFECTED | FY 2018 | FY 2019 | FY 2020 |
| General Revenue | (\$21,312) | (\$52,171) | (\$77,017) |
| Total Estimated Net Effect on General Revenue | (\$21,312) | (\$52,171) | (\$77,017) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2018 | FY 2019 | FY 2020 |
| | | | |
| | | | |
| Total Estimated Net Effect on Other 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 2018 | FY 2019 | FY 2020 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2018 | FY 2019 | FY 2020 |
| | | | |
| | | | |
| 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 2018 | FY 2019 | FY 2020 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

For the purpose of this proposed legislation, officials from 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 knowingly allowing a minor to drink or possess alcohol or failing to stop a minor from drinking or possessing alcohol. These offenses escalate from an A misdemeanor to an E felony. If the person under the age of twenty-one injures or kills another person while intoxicated, the crime becomes a new Class B felony.

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 where the right to counsel attaches.

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

Officials from the **Department of Corrections (DOC)** state SB 101 repeals section 311.310 RSMo (enacted 2005) and inserts a new section with increased penalties for the individual allowing anyone under the age of 21 years to possess intoxicating liquor. Parents and guardians are exempt from this law. The penalty for violation of the law changes from a class B misdemeanor to a class A misdemeanor. With any subsequent violations, the penalty changes from a class A misdemeanor to a class E felony. Additionally, the new 311.310 RSMo entails a new penalty (class B felony) to the individual who supplies the intoxicating liquor to the minor who then injures or kills another person while intoxicated.

Misdemeanor offenses in the bill are not supervised by the DOC. Therefore, the change of a class B misdemeanor to a class A misdemeanor for first time offense of 311.310 RSMo (charge code 33037) will not impact the DOC. However, the reclassification of a second offense of 311.310 RSMo (charge code 33033) from a class A misdemeanor to a class E felony could impact the DOC. According to data provided by the Office of State Courts Administrator, in FY15 four persons were sentenced for second offense to the aforementioned statute and one person in FY16.

With enactment of this bill, it is expected that 3 offenders will be sentenced to a class E felony per year (rounding of the average of number with charge code 33033 offenses in FY15 and FY16). On average, one-third of class E nonviolent felonies are incarcerated and two-thirds are assigned to probation. Thus, it is estimated that each year one offender of charge code 33033 is assigned to prison and two are assigned to probation.

ASSUMPTION (continued)

The average prison sentence for a nonviolent class E felony is 3.6 years with 2.3 years incarcerated and 1.3 years on parole. The average length of probation is 3 years for nonviolent class E felonies.

The probable impact of the new class B felony in subsection 3 is less certain because of lack of historical data. However, FY14, FY 15 and FY16 data, for offenders less than 21 years of age for a new admission to prison or probation for offenses related to injury or death of another while intoxicated, are used for estimation of impact on DOC (charge codes 10053, 10056, 10058, 10056, 10053, 10034, 10071, 10072, 10074, 13033, and 13036). On average, 18 minors are admitted for incarcerated and 34 minors start probation per year for these aforementioned alcohol-related offenses.

Using an estimate for the number of persons sentenced for providing alcohol to minors when the minor subsequently caused death or injury to another at 10% of the number of minors convicted, the impact to DOC is an increase of 5 individuals sentenced with a nonviolent class B felony per year. Assuming 20% are incarcerated (5-year sentence with 3.3 years incarcerated) and 80% receive probation (3-year sentence), the impact stabilizes in the fifth year at an increase of 3.3 persons incarcerated and 13.7 person assigned to probation.

If this impact statement has changed from statements submitted in previous years (DOC assumed no impact in 2016 for SB 614 and expenses exceeding \$100,000 for SB 30 in 2015), it is because the department's Budget and Research Section reviewed the way responses had been submitted and has developed a more precise way to calculate the impact. In previous year's responses, the full impact of recidivism for parole releases was not adequately calculated. Now we have been able to quantify the fact that some parolees are returned to prison after release and that has been added into the calculation of the impact. The total number of offenders has not changed but there is an assumption that they will spend more time back in prison rather than being on community supervision, which will increase the amount of the impacts.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

In summary, DOC assumes a cost of \$21,312 (2 in prison and 6 on probation/parole) in FY 2018, \$52,171 (4 in prison and 12 on probation/parole) in FY 2019, and \$77,017 (5.3 in prison and 18.7 on probation/parole) in FY 2020. Fully implemented, DOC assumes a cost of approximately \$88,000 by FY 2022 when 5.6 additional persons will be in prison and an additional 21 persons will be in the probation/parole system.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a measurable fiscal impact on their agency. 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 from the **Department of Public Safety (Missouri Highway Patrol and Alcohol and Tobacco Control)** as well as the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

| <u>FISCAL IMPACT - State Government</u> | FY 2018 (10 Mo.) | FY 2019 | FY 2020 |
|---|--------------------------|--------------------------|--------------------------|
| GENERAL REVENUE | | | |
| <u>Costs</u> - Department of Corrections - expenses for incarceration and probation/parole for additional offenders knowingly allowing a minor to drink or possess alcohol or failing to stop a minor from drinking or possession alcohol | <u>(\$21,312)</u> | <u>(\$52,171)</u> | <u>(\$77,017)</u> |
| ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND | <u>(\$21,312)</u> | <u>(\$52,171)</u> | <u>(\$77,017)</u> |
| | | | |
| <u>FISCAL IMPACT - Local Government</u> | FY 2018 (10 Mo.) | FY 2019 | FY 2020 |
| | <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.

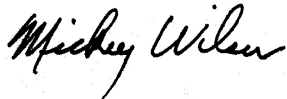
FISCAL DESCRIPTION

Under current law, it is a Class B misdemeanor for a property owner to knowingly allow a person under the age of 21 to drink or possess intoxicating liquor or fail to stop a minor from drinking or possessing liquor. This act makes the offense a Class A misdemeanor. Any subsequent violation is a Class E felony. The offense is a Class B felony if the person under the age of 21 kills or injures another while intoxicated..

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
Department of Corrections
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender



Mickey Wilson, CPA
Director
December 20, 2016

Ross Strope
Assistant Director
December 20, 2016