

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0114-02  
Bill No.: SCS for SB 85  
Subject: Evidence; Federal-State Relations; Highway Patrol; Licenses - Motor Vehicle;  
 Motor Vehicles; Public Safety Department  
Type: Original  
Date: March 3, 2017

---

Bill Summary: This proposal restricts the storage and use as evidence of data collected through automated license plate reader systems by government entities.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Local Government</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

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

Officials from the **Department of Corrections (DOC)** state this bill modifies chapter 43 by adding a new section known as 43.385 which deals with the collection and storage of information gathered via automated license plate readers.

This legislation creates the class E (formerly class D) felony of misuse of license plate reader information. The change in penalty classification reflects the changing felony classes which began January 1, 2017. Therefore, data on this class E felony are not available. In order to provide information on the impact of this legislation, standard impact for new offenses of a class D felony for a nonviolent offense is analyzed. In FY2016, class D nonviolent sentences average 3.6 years. Incarcerated offenders serve 2.3 years in prison and 1.3 years on parole. Average time for probation is 3.0 years. As estimated, for each year, one offender is sentenced to a prison term while two offenders are given probation in Missouri.

The cumulative impact on DOC, with the passage of SB 85, could result in an additional 2.3 offenders incarcerated and 7.3 persons on probation in FY21.

If this impact statement has changed from statements submitted in previous years, 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, supervision by the DOC would likely result in additional costs of probation or incarceration for each additional offender sentenced under this legislation of \$8,794 in FY 2018 (1 person in prison and 2 persons under supervision), \$21,528 in FY 2019 (2 persons in prison

ASSUMPTION (continued)

and 4 persons under supervision), and \$30,133 in FY 2020 (2.3 persons in prison and 6.7 persons under supervision).

**Oversight** will assume the DOC could absorb housing/supervising the relatively low number of anticipated offenders resulting from this proposal.

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 charged with the proposed new crime of misuse of a license plate reader or the information obtained by the reader - a new class E 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.

In response to a previous version of this proposal, officials from the **Attorney General's Office** assumed that any potential costs arising from this proposal could be absorbed with existing resources.

According to officials from the **Office of the Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules** state this legislation is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Springfield Police Department** state the proposal would not fiscally impact their agency.

In response to a previous version of this proposal, officials from the **Boone County Sheriff's Department (BCSD)** stated they could be fiscally impacted from implementing this proposal. Costs will be incurred related to overtime for officers having to obtain court permissions to access its own License Plate Reader (LPR) data. Also, if the Department of Public Safety does not approve an application by the BCSD for its already existing LPR program, and we are forced to shut it down, tens of thousands of dollars' worth of LPR cameras, equipment, and computer servers will be lost.

Officials from the Columbia Police Department, Jackson County Sheriff's Department, Independence Police Department did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
---	---------------------	---------	---------

**LOCAL POLITICAL SUBDIVISIONS**

<u>Costs or Loss - Police Departments and/or Sheriff's Department - to implement the provisions of this proposal regarding data collected through automated licence plate reader systems</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
--	----------------------------	----------------------------	----------------------------

<b>ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>
---	--------------------------------	--------------------------------	--------------------------------

### FISCAL IMPACT - Small Business

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

### FISCAL DESCRIPTION

This act restricts the storage of data collected through automated license plate reader systems by government entities to 30 days after capture. Entities in possession of the data must purge all records and backup copies of the data at the end of the 30 day period unless the data is subject to a preservation request for an active criminal investigation or court proceeding, is kept pursuant to a one year limited published law enforcement organization policy restricting data to detectives or system auditors after the initial 30 days, or pursuant to a warrant.

Under this act, captured plate data shall not be transferred to a federal database, but may be accessed by the federal government as otherwise provided by law. The use of any data or evidence derived from automated license plate reader systems preserved in violation of this section shall not be received into evidence in any proceeding.

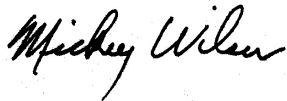
This act also creates a class E felony for misuse of license plate reader information collected by a government entity.

This act requires the Department of Public Safety to promulgate a rule establishing a standard for the installation and operation of automated license plate reader systems by August 28, 2018. Government entities must apply for approval of pre-existing systems within 30 days of the rule's promulgation, but may continue to operate such systems pending adjudication of the application. Government entities must apply for approval of new automated license plate readers, and may install but not operate such systems pending adjudication of the application, but must remove them if the application is denied.

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  
Office of the State Public Defender  
Department of Corrections  
Office of the State Courts Administrator  
Attorney General's Office  
Office of the Secretary of State  
Joint Committee on Administrative Rules  
Springfield Police Department  
Boone County Sheriff's Department



Mickey Wilson, CPA  
Director  
March 3, 2017

Ross Strobe  
Assistant Director  
March 3, 2017