

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0262-01
Bill No.: SB 153
Subject: Drugs and Controlled Substances; Health Care; Health Care Professionals; Health and Senior Services Department; Pharmacy; Physicians; Licenses - Miscellaneous
Type: Original
Date: January 23, 2017

Bill Summary: This proposal permits the use of medical marijuana for the treatment of certain impairments.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$675,912)	\$394,334	\$1,104,021
Total Estimated Net Effect on General Revenue	(\$675,912)	\$394,334	\$1,104,021

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

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 16 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
General Revenue	4	72	72
Total Estimated Net Effect on FTE	4	72	72

☒ 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	(Likely to exceed \$282,558)	(Likely to exceed \$339,070)	(Likely to exceed \$339,070)

FISCAL ANALYSIS

ASSUMPTION

§192.945 - Medical marijuana

Officials from the **Department of Health and Senior Services (DHSS), Division of Community and Public Health (DCPH)** state that under section 192.945, RSMo, DHSS is currently issuing hemp extract registration cards for persons suffering from intractable epilepsy. This proposal would expand the current program by allowing the issuance of registration cards for persons with other chronic or debilitating diseases and conditions to use medical marijuana.

Applications

The State of Oregon has a similar program in place that allows for the issuance of a registration card for conditions similar to those being proposed for the issuance of a medical marijuana registration card under this proposed legislation. For purposes of this fiscal note, the State of Oregon's program will be benchmarked.

A study updated in March 2016 by the nonprofit entity ProCon organization published the rates of patient registration cards issued for each state with a medical marijuana program (<http://medicalmarijuana.procon.org/view.resource.php?resourceID=005889>). This study found that Oregon was issuing qualified patient cards at a ratio of 19.2 per 1,000 patient populations. While the Oregon program was initiated in May 1999 and, therefore, has an established program, the state of Missouri's chronic disease rates are generally higher and the qualifying medical conditions accepted under Missouri's proposal are broader than those of Oregon. Missouri does allow for parents or legal guardians (could be more than one) of minors to be registered. For this fiscal note, DHSS has termed additional parents or guardians as secondary registrants or caregivers.

Calculation of applications:

- **Patients:** According to the 2015 U.S. Census Bureau information, Missouri's population is at 6,083,672. Applying the rate of 19.2 applications per 1,000 residents, Missouri would estimate issuing 116,807 patient registration cards annually ($6,083,672/1,000 = 6,083.67 \times 19.2$).
- **Caregivers:** According to the October 1, 2016 data on Oregon's Medical Marijuana Program Website, the ratio of patient registration cards to caregiver cards is calculated at 2.29. Calculating this same ratio, Missouri would estimate issuing 51,007 caregiver cards (secondary registrants) annually ($116,807/2.29$).

ASSUMPTION (continued)

Section 192.945 requires the establishment of a the medical marijuana registration program through promulgation of rules, including the development of program forms, registration card, and a system to record the name of each registrant and each minor receiving care from a registrant. As a result, DCPH anticipates the need to hire the following staff beginning on August 28, 2017 (FY18) to begin development of the system:

- One Program Manager Broad Band 2 (\$65,000 annually) - will serve as Chief of the Medical Marijuana Registration Bureau. Duties will include overall program management, including involvement in rule promulgation, development of forms, program policies and procedures, information system development, and initial program set-up.
- One Health Program Representative III (\$39,708 annually) - duties will include assistance in rule promulgation, program policies and procedures, forms development, information system development/troubleshooting and maintenance, and initial program set-up.
- One Administrative Office Support Assistant (\$28,668 annually) - duties will include providing administrative assistance to the Bureau Chief, and HPR III positions. As allowed, this position will also assist in initial processing of applications for registration cards.

For fiscal note purposes DCPH calculated 45 minutes of processing time per patient and caregiver application (116,807 patients + 51,007 caregivers = 167,814 applications) . Based on this assumption, it was determined 61 FTE will be needed (167,814 applications X 0.75 hour per application/ 2,080 hours per year = 60.5 FTE, rounded to 61 FTE). The following staff will be hired effective July 1, 2018 upon completion of the system development and implementation of the program:

41 Senior Office Support Assistant (SOSA) positions (\$26,340 each, annually) – duties will include

- processing of paper applications for the medical marijuana registration program, to include opening and date stamping of mail,
- initial entry of application information into the electronic registry for patients and caregivers,
- initial verification of applicant and physician identification,
- preparation of patient and caregiver registration cards,
- answering and assisting telephone callers, and
- mailing of applicant correspondence, renewal notices, and registration cards.

ASSUMPTION (continued)

20 Health Program Representative II (HPR II) positions (\$35,640 each, annually) – duties will include

- supervision of the SOSA positions,
- quality assurance checks of the application including valid, Missouri licensed practitioners and required documentation of allowed condition(s),
- verification and approval of applications including final approval of application rejects and card issuances,
- drafting of correspondence for incomplete, inaccurate or unapproved applicants, and
- dealing with applicant and medical complaints and concerns.

Printing

DCPH assumes that 90% of registrants will renew each year and renewal cards will also need to be printed for each registrant annually. DCPH also estimates new applicants to grow by 10 percent annually. DCPH will purchase a card delivery system with the ability to print the card with the magnetic stripe, attach the card to a personalized letter, and secure an envelope ready for mailing. The initial cost of the card delivery system is estimated at \$277,000. In addition, there will be an annual equipment preventative maintenance fee of \$34,000. The average supply cost to print each card is \$0.59/card.

DCPH will print 100,000 brochures each year the program is operational at a cost of \$.06 per brochure. This brochure will provide the public with information about the medical marijuana registration program and assistance in completing a valid registration.

	FY 2018	FY 2019	FY 2020
Cards for New Applicants	0	167,814	16,781
Cards for Renewals	0	0	151,033
Total Cards Issued	0	167,814	167,814

FY19

167,814 cards X \$0.59 per card/print supplies = \$99,010

100,000 brochures (\$0.06 per brochure) = \$6,000

FY20

167,814 cards X \$0.59 per card/print supplies = \$99,010

100,000 brochures (\$0.06 per brochure) = \$6,000

ASSUMPTION (continued)

Mailing costs

Each registrant will receive his/her card in the mail. Renewal cards will also be mailed to each registrant annually. It is also assumed five percent of applications (new and renewal) will be incomplete, requiring written notification of an incomplete application. It is also projected that 25 percent of the printed brochures (25,000) along with paper applications will be mailed to the public upon request. The other printed brochures will be available for distribution at conferences and other public venues.

Projected mailings are as follows:

	FY 2018	FY 2019	FY 2020
Cards mailed to new applicants	0	167,814	16,781
Renewal cards mailed	0	0	151,033
Brochures/app mailed	0	25,000	25,000
Incomplete Application	0	8,391	8,391
Total mailings	0	201,205	201,205

FY19

201,205 envelopes (\$41 per 1,000) = $202 \times \$41 = \$8,282$

Postage (201,205 x \$0.39/postage rate) = \$78,470

FY20

201,205 envelopes (\$41 per 1,000) = $202 \times \$41 = \$8,282$

Postage (201,205 x \$0.39/postage rate) = \$78,470

Application Storage Costs

In order to manage the final storage of paper applications submitted, Content Manager for electronic scanning and storage will be utilized. The costs for Content Manager are estimated at \$132 per month for the state data server costs, \$234 for an annual license for each user who needs to view files, and \$828 for an annual license for each position with ability to scan/import documents.

Application Registration Fees

The proposal allows the DHSS to establish a fee for the issuance of a medical marijuana registration card. For purposes of this fiscal note, it is estimated that DHSS would charge a \$35 registration fee.

ASSUMPTION (continued)

It is anticipated that Missouri will receive 167,814 new applications in its first year of operation (FY 2019). In subsequent years, new applications are estimated to grow by 10 percent annually; however, renewals are estimated to decline by 10 percent annually.

Projected fees received for the three years (FY 2018 – FY 2020) are as follows:

	FY 2018	FY 2019	FY 2020
Application & Renewals	0	167,814	167,814
Application Fees	\$0	\$5,873,490	\$5,873,490

Officials from the **DHSS, Division of Administration (DA)** provide the following assumptions for this proposal:

For fiscal note purposes DA estimates one Accounting Clerk can process 30,000 receipt transactions received per year. DHSS estimates 167,814 payments for applications will be processed in FY19 and 167,814 in FY20. ($167,814/30,000 = 5.6$; rounded to 5.5) An Accounting Generalist I/II will be needed for every five Accounting Clerks ($5.5/5 = 1.1$; rounded to 1.0).

Six Accounting Clerk positions (\$26,340 each, annually) – duties will include

- Opens and sorts mail;
- Process and enter receipts into the departmental computer system;
- Prepares bank deposits and cash receipts documents;
- Reconciles daily receipts;
- Distributes supporting documentation to program.

One Accounting Generalist I/II position (\$41,184 annually) – duties will include

- Supervise and review the work of Account Clerks who are processing the application fees.

Each application and license would have a fee transaction.

Officials from the **DHSS, Office of General Counsel** assume one full-time attorney (Legal Counsel, \$50,000 annually) would be needed to assist in drafting emergency and proposed regulations and forms; perform legal research and provide day-to-day legal counsel to the program. In addition, the attorney would represent the Department in appeals of licensure and identification card denials.

DHSS estimates the net impact to the General Revenue Fund to be a cost of \$520,598 for FY18; and a positive impact of \$334,121 for FY19 and \$1,049,493 for FY20.

ASSUMPTION (continued)

Oversight will adjust DHSS rental expenses to correspond to the estimated rate per square foot used by the Office of Administration, Division of Facilities Management, Design and Construction. In addition, Oversight assumes DHSS will not hire part-time staff and will have those duties absorbed by existing staff.

Officials from the **Office of Administration (OA), Division of Facilities Management, Design and Construction (FMDC)** state additional space in leased facilities for new staff for agencies in the Cole County area is estimated at 230 sq. ft. per FTE times \$17.50 per sq. ft., or \$4,025 annually per FTE. This cost includes building lease costs, fuel and utilities, and janitorial services. If a larger space were needed, the space was needed in other regions of the state, or newly constructed space if required, the estimated costs would be higher cost per sq. ft. (estimated at \$24.50 per sq. ft.).

DHSS provided the following assumptions from the **Office of Administration (OA), Information Technology Services Division (ITSD)**. ITSD states it is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity

A 12-month project effort with three contractors has been assumed. It is assumed the application will be hosted in the State Data Center (SDC) on existing web application servers. Disk space has been assumed at 50 GB per environment (DEVO, TEST, and PROD). Funding for ongoing maintenance will come from registration fees established by DHSS.

FY18 costs to the General Revenue Fund are estimated to be \$308,736. On-going support costs for FY19 and FY20 are estimated to be \$63,752 and \$65,346 respectively.

Officials from the **Department of Public Safety (DPS), Missouri State Highway Patrol (MHP)** provide the following assumptions:

\$192,945 - Confidential list of registrants can be disclosed to law enforcement agencies

The MHP would develop an interface between the MHP and the Department of Health and Senior Services (DHSS) to receive the information and then develop a database to store and retrieve the information. The work will be completed by the state's computerized criminal history vendor, Computer Projects of Illinois (CPI), because the systems affected are components of a commercial system bought by the MHP. CPI estimates a total of 600 hours of combined work @ \$100 per hour (\$60,000 total) based on the following projections:

ASSUMPTION (continued)

80 hours - Discover and design
120 hours - Database modifications
70 hours - Store procedure codes
100 hours - Forms creation and redesign
90 hours - Switch routing and transactions
80 hours - Testing
60 hours - Project management
600 hours - Total project

In addition, the MHP estimates an annual maintenance cost of \$5,200.

Officials from the **OA, Division of Budget & Planning (B&P)** state section 192.945, RSMo, currently allows the Department of Health and Senior Services (DHSS) to issue hemp extract registration cards for individuals with intractable epilepsy. This proposal will expand the current program by allowing the issuance of medical marijuana registration cards for persons with specified serious conditions. Section 192.945.6 allows DHSS to establish a fee for the issuance of medical marijuana registration cards to qualifying patients or their parents in instances when the patient is a minor. A specific amount is not given; however, the proposal states that the amount shall be no greater than the amount necessary to cover the cost the department incurs for implementation. Total State Revenue (TSR) may increase due to newly eligible qualifying patients applying for a registration card under the expanded program. This may also impact the calculation under Article X, Section 18(e). B&P defers to DHSS for an estimate of the amount of fees that may be generated from this proposal.

§261.265 - Promulgation of rules including background checks

Officials from the **DPS, MHP** provide that in 261.265.7, the proposal states that the department shall promulgate rules including, but not limited to application requirements for licensing, including requirements for the submission of fingerprints and the completion of a criminal background check. However, this section does not specify if a state and federal fingerprint-based criminal background check is required; therefore, the exact cost and fiscal impact to the Criminal Justice Information Services Division (CJIS) is unknown.

Currently, the Department of Agriculture can issue two cultivation facility licenses. To date, it has issued only one license with ten employees per facility; therefore, the anticipated number of criminal background checks to be performed is very minimal.

ASSUMPTION (continued)

The cost for a fingerprint-based background check, to include state and federal, open and closed records, is \$40.30 (\$20 state fingerprint check + \$12 federal check + \$8.30 third-party vendor for electronic fingerprint option). Of this amount, the state retains the \$20 state fee and \$2 of the federal charge as a pass-thru fee. The \$8.30 vendor fee is paid directly to the vendor at the time of application.

Oversight assumes the background check revenue will be minimal and will not present this income to the Criminal Records Fund for fiscal note purposes.

Officials from the **Department of Agriculture (AGR)** provide the following assumptions for section 261.265.2 through .13:

Because of the nature of maladies listed under this bill, the number of persons who may receive a registration card will be expanded. It is anticipated that this expansion will require a significant increase in the production of plants as compared to the production level under the current hemp extract law. It is assumed that each production facility would have two (2) inspections per month.

Since this bill changes the inspected commodity from hemp to marijuana, it is assumed that all inspectional activities will be performed with two (2) inspectors on site due to increased safety and liability risks.

The inspector would be responsible for semimonthly inspection of cultivation/production facilities. It is anticipated that facilities would be located in major metro areas of Missouri including St. Louis, Kansas City and/or Springfield.

The AGR estimates costs to the General Revenue Fund of \$99,918 for FY 18; \$92,069 for FY 19; and \$93,304 for FY 20.

Oversight has, for fiscal note purposes only, changed the starting salary for the Feed and Seed Inspector II to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

ASSUMPTION (continued)

Bill as a whole

Officials from the **St. Louis County Police Department (St. Louis Co. PD)** state they estimate they would need at least four (4) additional officers to investigate the diversion of legal medical marijuana to illegal/recreational use. In addition, it is expected that the number of impaired drivers will increase. It is much more difficult to determine whether a person is impaired by marijuana and at what level. There is currently no breath test available and blood testing takes much more of the officer's time. Officer training to recognize and act on marijuana impairment will be necessary and costly. The St. Louis Co. PD currently has 890 commissioned officers. It is estimated that it would take approximately \$250 to develop the training course and 45 classes to train all of the officers; officers make \$30 per hour and 20 officers would attend each course. Therefore, training costs are estimated to be \$27,250 annually [$\$250 + (45 \text{ classes} \times 20 \text{ attendees/class} \times \$30 \text{ officer pay/hour}) = \$27,250$].

It is estimated the cost to the St. Louis Co. PD for this proposed legislation would be approximately \$311,820 annually for four additional police officers (average salary + benefits = \$77,955/officer X 4), excluding additional training costs.

Therefore, the St. Louis Co. PD estimates the annual fiscal impact of this proposal on their organization to be \$339,070 (\$250 course development + \$27,000 officer training + \$311,820 additional police officer salary & fringe benefits).

Officials from **Callaway County** assume the proposal will have an unknown fiscal impact to the county.

Officials from the **Office of the Secretary of State (SOS)** state 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, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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 **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Public Safety (DPS)**, **Division of Alcohol and Tobacco Control**, the **Joint Committee on Administrative Rules**, the **Missouri Office of Prosecution Services**, the **Office of State Courts Administrator**, the **Office of State Public Defender** and **St. Louis County** each assume the proposal would not fiscally impact their respective agencies.

Officials from the following **counties**: Andrew, Atchison, Audrain, Barry, Bollinger, Boone, Buchanan, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Cole, Cooper, Dekalb, Dent, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Platte, Pulaski, Scott, St. Charles, St. Francois, Taney, Warren, Wayne, Webster and Worth did not respond to **Oversight's** request for fiscal impact.

Officials from the following **law enforcement agencies**: the Ashland Police Chief, Boone County Sheriff's Department, Buchanan County Sheriff's Department, Cass County Sheriff's Office, Clark County Sheriff's Department, Cole County Sheriff's Department, Columbia Police Department, Eureka, Independence Police Department, Jackson County Sheriff's Department, Jefferson City Police Department, Jefferson County 911 Dispatch, Platte County Sheriff's Department, Springfield Police Department, St. Charles Police 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 a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
<u>Income - DHSS (\$192.945)</u>			
Application fees	\$0	\$5,873,490	\$5,873,490
<u>Costs - DHSS (\$192.945)</u>			
Personal service	(\$111,147)	(\$2,170,490)	(\$2,192,195)
Fringe benefits	(\$54,575)	(\$1,378,240)	(\$1,384,704)
Equipment and expense	(\$46,140)	(\$1,774,505)	(\$1,033,871)
ITSD costs/on-going support	<u>(\$308,736)</u>	<u>(\$63,752)</u>	<u>(\$65,346)</u>
Total <u>Costs - DHSS</u>	<u>(\$520,598)</u>	<u>(\$5,386,987)</u>	<u>(\$4,676,116)</u>
FTE Change - DHSS	3 FTE	71 FTE	71 FTE
<u>Costs - DPS (\$192.945)</u>			
Contracted computer system modifications	(\$60,000)	\$0	\$0
Computer system maintenance	\$0	<u>(\$5,200)</u>	<u>(\$5,200)</u>
Total <u>Costs - DPS</u>	<u>(\$60,000)</u>	<u>(\$5,200)</u>	<u>(\$5,200)</u>
<u>Costs - AGR (\$261.265)</u>			
Personal service	(\$30,770)	(\$37,666)	(\$38,043)
Fringe benefits	(\$17,756)	(\$21,525)	(\$21,637)
Equipment and expense	<u>(\$46,788)</u>	<u>(\$27,778)</u>	<u>(\$28,473)</u>
Total <u>Costs - AGR</u>	<u>(\$95,314)</u>	<u>(\$86,969)</u>	<u>(\$88,153)</u>
FTE Change - AGR	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$675,912)</u>	<u>\$394,334</u>	<u>\$1,104,021</u>
Estimated Net FTE Change on the General Revenue Fund	4 FTE	72 FTE	72FTE

FISCAL IMPACT - Local Government

FY 2018
(10 Mo.)

FY 2019

FY 2020

**LOCAL GOVERNMENTS - LAW
ENFORCEMENT AGENCIES**

Costs - Police Departments

Increase in police officer FTE, fringe
benefits, training, etc.

(Likely to
exceed
\$282,558)

(Likely to
exceed
\$339,070)

(Likely to
exceed
\$339,070)

**ESTIMATED NET EFFECT ON
LOCAL GOVERNMENTS - LAW
ENFORCEMENT AGENCIES**

**(Likely to
exceed
\$282,558)**

**(Likely to
exceed
\$339,070)**

**(Likely to
exceed
\$339,070)**

FISCAL IMPACT - Small Business

§261.265 - The proposed legislation allows the Missouri Department of Agriculture to issue licenses to ten cultivation and production facilities in the state to grow or cultivate the cannabis plant used to make hemp extract. There could be an unknown impact on small businesses that may serve as these facilities.

FISCAL DESCRIPTION

This act allows people with serious conditions to use medical marijuana.

Serious condition is defined as cancer, HIV, AIDS, amyotrophic lateral sclerosis, Alzheimer's disease, rheumatoid arthritis, fibromyalgia, severe migraines, Parkinson's disease, multiple sclerosis, spinal cord damage, epilepsy, inflammatory bowel disease, neuropathies, Huntington's disease, or certain specified symptoms or complications associated with the conditions listed above.

This act provides that the Department must issue a registration card to a person who provides a certification signed by a practitioner that the person suffers from a serious condition and may benefit from treatment with medical marijuana, indicates the practitioner is qualified to treat the condition, states that the individual is under the practitioner's continuing care, and provides the form of marijuana the patient should consume, including the method of consumption and the appropriate dosage.

FISCAL DESCRIPTION (continued)

Under this act, the Department is required to maintain a confidential list of people with registration cards. The list is confidential except in certain specified circumstances.

Registrants must possess a form of medical marijuana that complies with the practitioner's certification.

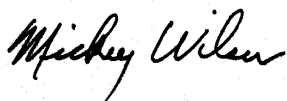
The act provides that the fraudulent misrepresentation to an officer of any fact relating to the use of products containing medical marijuana in order to avoid arrest is a class D misdemeanor.

This act prohibits a licensed medical marijuana grower from obtaining marijuana from outside the state, employing felons, and selling medical marijuana without verifying the validity of the buyer's registration card. Growers must clearly label marijuana products.

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 Agriculture
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Public Safety -
 Division of Alcohol and Tobacco Control
 Missouri State Highway Patrol
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Office of State Courts Administrator
Office of Secretary of State
Office of State Public Defender
Callaway County
St. Louis County
St. Louis County Police Department



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Mickey Wilson, CPA
Director
January 23, 2017

Ross Strobe
Assistant Director
January 23, 2017