

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1076-02
Bill No.: SB 287
Subject: Attorney General; Civil Penalties; Civil Rights; Crimes and Punishment;
 Disabilities; Law Enforcement Officers and Agencies; Minorities
Type: Original
Date: March 3, 2017

Bill Summary: This proposal creates a process for reducing bias in policing.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$39,028)	\$0	\$0
Total Estimated Net Effect on General Revenue	(\$39,028)	\$0	\$0

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 8 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	0.5 FTE	0 FTE	0 FTE
Total Estimated Net Effect on FTE	0.5 FTE	0 FTE	0 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 2018	FY 2019	FY 2020
Local Government	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Attorney General's Office (AGO)** state the proposal would have the following impact on their agency:

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 \$40,000 per year

Officials from the **Department of Public Safety - Office of the Director (DPS)** state they, the POST staff, and the POST Commission, will need to hold meetings in order to develop guidelines and training relative to this legislation. We know there will be costs, particularly mileage, associated with the meetings, however, we believe we would be able to absorb these costs. Thus, DPS assumes no fiscal impact due to this legislation.

Officials from the **Department of Public Safety - Missouri Highway Patrol** state the fiscal impact to their Criminal Justice Information Services Division is approximately \$3,850. For purposes of this fiscal note, the Patrol believes this impact will be handled in-house and can be absorbed. Therefore, the Patrol anticipates no fiscal impact for these modifications.

ASSUMPTION (continued)

Officials from the **Missouri Department of Conservation (MDC)** assume an unknown fiscal impact to their department.

Oversight assumes the MDC could implement this proposal within existing appropriations.

Officials from the **Department of Natural Resources**, 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 the proposal would not fiscally impact their agency.

In response to a similar bill from 2016 (SB 671), officials from the **Cole County Sheriff's Department** stated 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.

In response to a similar bill from 2016 (SB 671), officials from **St. Louis County** stated, 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 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 to allow video uploading and storage, additional IT positions for support and upkeep, and any future maintenance.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
<u>Costs - AGO</u>			
Personal Service (0.5 FTE)	(\$21,673)	\$0	\$0
Fringe Benefits	(\$10,126)	\$0	\$0
Expense and Equipment	<u>(\$7,401)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs - AGO</u>	(\$39,200)	\$0	\$0
FTE Change - AGO	0.5 FTE	0 FTE	0 FTE
 ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	 <u>(\$39,200)</u>	 <u>\$0</u>	 <u>\$0</u>
 Estimated Net FTE Change for the General Revenue Fund	 0.5 FTE	 0 FTE	 0 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
LOCAL LAW ENFORCEMENT AGENCIES			
<u>Costs - to implement the provisions related to racial profiling</u>	(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

Currently, each time a peace officer stops a driver of a motor vehicle, the officer is required report certain information regarding the status of the driver, including his or her status as a minority group, the cause for the stop, and the consequences of the stop. There is also a process for law enforcement agencies to compile this information and report it to the Attorney General, and for the Attorney General to analyze this information and issue a report on it. This act repeals these provisions.

This act defines biased policing and prohibits members of Missouri law enforcement agencies from engaging in it. Biased policing is defined as policing which occurs in circumstances in which the peace officer's actions are based in whole or in part on the real or perceived race, ethnicity, religious beliefs, gender, English language proficiency, status as a person with a disability, or national origin of a person rather than upon lawful and appropriate law enforcement procedures based on observed behavior or facts about the individual indicating criminal activity.

Under this act, peace officers who stop individuals are required to report certain information, including the race, ethnicity, age, gender, disability, and English language proficiency of the stopped individual, the jurisdiction in which the stopped individual resides based on the best information available, the reasons leading to the stop, how the alleged violations leading to the stop were detected, the time, date, location, and duration of the stop, post-stop activities, whether any physical force was used, whether a mental health professional was consulted at the scene, under what authority the stopped individual was searched, if a drug dog was alerted, the outcome of the stop, what if any contraband was found, if the stopped individual was handcuffed before arrest, if consent to the stop was asked for and documented if received, if other nearby individuals were stopped, what areas of a vehicle or person were searched, or if a vehicle was towed.

Law enforcement agencies are required to compile and submit the data collected from these reports to the Attorney General, and to maintain, update, and publish the compiled data. The agencies shall not report the names and identifying information of the peace officers or stopped individuals. Further, this act requires the Attorney General to analyze the data collected by peace officers and prepare an annual report containing several specific sets of data and information described in the act. The report shall use best practices to identify situations in which racial and ethnic groups are disproportionately affected by law enforcement activity. Ratios of disparity reflecting racially disproportionate police actions shall be calculated by a method described in the act and published.

Under this act, each law enforcement agency shall conduct an annual review of the data collected by peace officers under this act and issue a report according to the requirements of the act.

FISCAL DESCRIPTION (continued)

During this annual review, law enforcement agencies shall, among other considerations, seek to determine the degree to which biases affect policing actions, and seek factors that might account for such biases.

Each law enforcement agency shall promulgate internal policies to control biased policing in accordance with this act's guidelines and requirements. Further, each law enforcement agency with more than fifty peace officers shall create a community partnership in accordance with this act's guidelines and requirements. Further, this act requires that law enforcement personnel are hired and trained by methods which identify and reduce biased policing.

Under this act, if a law enforcement agency has failed, excluding minor technical errors, to comply with any of the requirements of the act for three consecutive years, the Attorney General shall order that the jurisdiction or governing body that the law enforcement agency serves be required to forfeit 15% of its annual general operating revenue received from fines, bond forfeitures, and court costs for traffic violations. The penalty shall continue until such time as the section's requirements are met. The Attorney General shall review such agencies' efforts to achieve non-biased policing. The Attorney General shall take additional measures to ensure that agencies conduct efforts to reduce biased policing if those agencies continue to report significant disproportions in law enforcement action in subsequent years. As a maximum penalty, the Attorney General shall order, after six years of review, that the jurisdiction or governing body that the law enforcement agency serves be required to forfeit 25% of its annual general operating revenue received from fines, bond forfeitures, and court costs for traffic violations.

Under this act, if a law enforcement agency continues to report significant disparities after seven years or longer, the Attorney General shall have the authority to bring an action against that law enforcement agency, seeking to dismantle the agency and place law enforcement responsibilities with the county or state until such time as the agency can be reconstituted with newly hired officers.

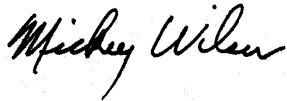
Under this act, civil causes of action are created against law enforcement agencies, peace officers, and contract and civilian employees of law enforcement agencies which engage in biased policing. Remedies under these actions include compensatory and punitive damages, injunctive and declaratory relief, nominal damages, and such other relief as a court deems appropriate.

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

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Department of Public Safety
Attorney General's Office
Department of Natural Resources
Missouri Department of Conservation
Department of Social Services
Office of the State Courts Administrator
Cole County Sheriff's Department
St. Louis County

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
March 3, 2017

Ross Strope
Assistant Director
March 3, 2017