

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0717-01
Bill No.: SB 144
Subject: Attorney General; Civil Penalties; Consumer Protection; Crimes and Punishment; Liability
Type: Original
Date: January 22, 2019

Bill Summary: This proposal adds call spoofing to the prohibited solicitations under the no-call list.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Merchandising Practices Revolving	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 2020	FY 2021	FY 2022
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

§§407.1095, 407.1098, 407.1104, and 407.1107 - Call spoofing

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they 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 call spoofing, a new class E felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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 notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Officials from the **Department of Corrections (DOC)** state this legislation adds call spoofing to the prohibited solicitations under the no-call list.

DOC estimates the initial impact is one person incarcerated and two additional persons on probation. The average sentence length totals 3.4 years (2.1 years incarcerated and 1.3 years of parole). The probationary term is three years. The full impact occurs in year three with two more offenders in prison and seven offenders on field supervision.

ASSUMPTION (continued)

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	1.0	(\$6,287)	(\$5,239)	2	absorbed	\$0	(\$5,239)
Year 2	2.0	(\$6,287)	(\$12,825)	4	absorbed	\$0	(\$12,825)
Year 3	2.0	(\$6,287)	(\$13,082)	7	absorbed	\$0	(\$13,082)
Year 4	2.0	(\$6,287)	(\$13,344)	7	absorbed	\$0	(\$13,344)
Year 5	2.0	(\$6,287)	(\$13,611)	7	absorbed	\$0	(\$13,611)
Year 6	2.0	(\$6,287)	(\$13,883)	7	absorbed	\$0	(\$13,883)
Year 7	2.0	(\$6,287)	(\$14,160)	7	absorbed	\$0	(\$14,160)
Year 8	2.0	(\$6,287)	(\$14,444)	7	absorbed	\$0	(\$14,444)
Year 9	2.0	(\$6,287)	(\$14,732)	7	absorbed	\$0	(\$14,732)
Year 10	2.0	(\$6,287)	(\$15,027)	7	absorbed	\$0	(\$15,027)

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. 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.

Oversight notes that the **Attorney General’s Office, Department of Public Safety - Missouri State Highway Patrol** and **Office of State Courts Administrator** have stated the proposal would not have a direct fiscal impact on their organizations.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight notes under this bill, the civil penalty for a violation for call spoofing carries a penalty of \$10,000 for each knowing violation. Civil penalties go to local school funds. Therefore, the impact to local governments will be presented as \$0 to Unknown, depending upon the number of civil penalties assessed and collected for call spoofing.

For comparison, **Oversight** inquired with the Attorney General’s Office (AGO) regarding past activity relating to the No-Call list. The AGO states they had the following number of judgements and settlements over the last three calendar years:

ASSUMPTION (continued)

Calendar Year	Number of Resolutions	Total Judgement/Settlement
2016	6	\$43,000
2017	11	\$805,433
2016	1	\$500,133

The AGO also stated that any cost of investigation and prosecution would go through the Merchandising Practices Revolving Fund (0631), per §407.140.4.

Oversight notes the existing language in this proposal may already encompass “call spoofing” as a method of telephone solicitation in §407.1104 which states, “...shall, at the beginning of such solicitation, state clearly the identity of the person or entity initiating the solicitation”. Furthermore, it is unclear if the increased penalty weight will actually apply as the violation listed is for “call spoofing” and not “telephone solicitation via call spoofing”. Therefore, Oversight will present costs for fiscal note purposes as \$0 to (Unknown).

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Costs - SPD (§407.1107)</u>			
Salaries, fringe benefits, and equipment and expense	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs - DOC (§407.1107)</u>			
Increased incarceration costs	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
MERCHANDISING PRACTICES REVOLVING FUND			
<u>Costs - AGO (\$407.1107)</u>			
Increase in investigation and prosecution costs	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON THE MERCHANDISING PRACTICES REVOLVING FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL GOVERNMENT - SCHOOLS			
<u>Income - Schools (\$407.1107)</u>			
Civil penalty imposed for call spoofing	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT - SCHOOLS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</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 adds call spoofing, as defined in the act, as a method of telephone solicitation prohibited under provisions relating to the telemarketing no-call list. A violation for call spoofing is a Class E felony and carries a civil penalty of \$10,000 for each knowing violation.

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 Corrections
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office



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January 22, 2019

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