

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1696-04
Bill No.: SB 382
Subject: Attorney General; Consumer Protection; Crimes and Punishment; Internet and E-mail; Liability
Type: Original
Date: April 29, 2019

Bill Summary: This proposal requires internet service providers to block obscene websites and provide subscribers the ability to create a password to access such websites.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(Less than \$421,521)	(Less than \$437,458)	(Less than \$440,740)
Total Estimated Net Effect on General Revenue	(Less than \$421,521)	(Less than \$437,458)	(Less than \$440,740)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> 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 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
General Revenue	5 FTE	5 FTE	5 FTE
Total Estimated Net Effect on FTE	5 FTE	5 FTE	5 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 2020	FY 2021	FY 2022
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Attorney General's Office (AGO)** assume a fiscal impact of 3 Consumer Service Operators (\$30,000 each annually) and 2 AAGs I (\$45,500 each annually) due to the responsibilities arising from 407.1600.09 and 407.1600.12. There would be a total cost for the AGO of \$321,521 in FY 2020, \$337,458 in FY 2021, and \$340,740 in FY 2022.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the estimated costs from AGO on the fiscal note.

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 providing a minor with a password in order to access a blocked website - a new Class A misdemeanor. 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.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services** assume the proposal will have no fiscal impact on their organization. The creation of new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Oversight assumes with the creation of a new crime there could be a potential increase in caseloads for county prosecutors. The additional costs are difficult to determine. Therefore, Oversight will reflect an unknown cost to political subdivisions on the fiscal note.

Officials from the **Office of State Courts Administrator** assume the proposal will have no fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Cost - AGO</u>			
Salaries	(\$150,833)	(\$182,810)	(\$184,638)
Fringe Benefits	(\$98,509)	(\$118,762)	(\$119,319)
Equipment and Expense	<u>(\$72,179)</u>	<u>(\$35,886)</u>	<u>(\$36,783)</u>
<u>Total Cost - AGO</u>	<u>(\$321,521)</u>	<u>(\$337,458)</u>	<u>(\$340,740)</u>
FTE Change - AGO	5 FTE	5 FTE	5 FTE
<u>Cost - SPD</u>			
Salaries, fringe benefits, and equipment and expense	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Less than <u>\$421,521</u>)	(Less than <u>\$437,458</u>)	(Less than <u>\$440,740</u>)
Estimated Net FTE Change for General Revenue	5 FTE	5 FTE	5 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
POLITICAL SUBDIVISIONS			
<u>Cost-</u> increase responsibilities for county prosecutors	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Under this act, an internet service provider shall provide a means to block access to obscene websites and redirect a blocked website to a web page that provides the subscriber the ability to enter a password in order to gain access to the blocked website. A mechanism to create a password shall be provided to subscribers that are 18 years of age or older. The password shall be required at each attempt to access a blocked website and shall be changed every 3 months.

An internet service provider shall provide a website, call center, or similar method of communication for a person to report a blocked website he or she believes should be accessible, and a website that he or she believes should be blocked. An internet service provider shall create a method of evaluation to determine if a website is obscene. An internet service provider shall send out a document to the reporting person indicating the status of the website within a reasonable amount of time, not to exceed 10 days after receiving the report. A website deemed not accessible shall be blocked in accordance with the provisions of the act to all persons within the state network of the internet service provider.

The Attorney General's office shall also provide a website, call center, or similar method of communication for a person to report a blocked website he or she believes should be accessible, and a website that he or she believes should be blocked, and shall create a method of evaluation to determine if a website is obscene. The Attorney General's office shall notify the reporting person indicating the status of the website within a reasonable amount of time, not to exceed 10 days of receiving the report. A copy of the decision shall also be provided to the internet service provider.

FISCAL DESCRIPTION (continued)

An internet service provider is not liable for any penalty under the act if the provider makes a good faith effort to apply a generally accepted and commercially reasonable method of blocking obscene websites and that such technology has the ability to discover and block new obscene websites and fulfills the requirements of the act.

A subscriber that provides a minor with his or her password to access a blocked website shall be guilty of a Class A misdemeanor.

An internet service provider that purposely fails to block known obscene content or is made aware of previously unblocked obscene content and fails to block such content within 5 days of being made aware of the content shall be guilty of a Class A misdemeanor.

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



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Director
April 29, 2019

Ross Strobe
Assistant Director
April 29, 2019