

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3087-01  
Bill No.: SB 540  
Subject: Crimes and Punishment; Sexual Offenses; Highway Patrol  
Type: Original  
Date: December 30, 2019

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Bill Summary: This proposal modifies the registration as a sex offender for certain offenses.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<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 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Federal	\$0 to \$40,000	\$0 to \$40,000	\$0 to \$40,000
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 to \$40,000</b>	<b>\$0 to \$40,000</b>	<b>\$0 to \$40,000</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</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 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §§570.023, 570.025, 570.030, 589.404, and 589.414 - Sex offender registration

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 failure to register as a sex offender for stealing an item sexual in nature. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In Fiscal Year 2019, SPD's Trial Division opened 455 cases under the charge of Failure to Register as a Sex Offender, of the 62,002 total cases opened. If these cases were increased by just ten percent for the new requirement, it could result in an additional 46 new cases.

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 \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and an increase in workload resulting from this bill cannot be absorbed with 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.

According to "The Missouri Project" (RubinBrown, June 2014), the number of hours that should be spent on a class C/D/E felony is 28.5. This number takes into account time for travel and in-court appearances. For purposes of this fiscal note, if the SPD saw an increase of just ten percent or 46 additional cases ( $455 \times 0.10 = 46$ , rounded up), the SPD could spend an additional 1,311 hours on these cases annually ( $46 \text{ cases} \times 28.5 \text{ hours}$ ).

ASSUMPTION (continued)

**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.

**Oversight** notes the **Department of Public Safety - Missouri State Highway Patrol (MHP)** has stated the proposal would not have a direct fiscal impact on their organization. However, to avoid being penalized by the Sex Offender Registration and Notification Act (SORNA) and potentially lose ten percent of future grant funding, it is important Section 589.404, RSMo, defines “Sexual Conduct” in addition to “Sexual Contact”.

**Oversight** also notes the Adam Walsh Act Grant may allocate up to \$400,000 each fiscal year. The amount of the grant funding varies depending on what is applied for and what is actually allocated. Over the past seven years, the MHP has averaged \$256,476 annually. The highest amount received was \$400,000, the lowest was \$163,385, and there was one year the MHP did not apply for any funding. The MHP states it could lose ten percent of the money awarded each year the MHP is not in compliance. Therefore, the impact to federal funds will be presented as \$0 to \$40,000 for remaining (or coming into) compliance.

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

**Oversight** notes the **Department of Corrections** and **Office of State Courts Administrator** have each stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>GENERAL REVENUE FUND</b>			
<u>Costs - SPD (§§570.023, 570.025, 570.030, 589.404, 589.414) Salaries, fringe benefits, and equipment and expense</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>FEDERAL FUNDS</b>			
<u>Loss Avoidance - MHP (589.404)</u>			
Continuation of Adam Walsh Act Grant funds - if now in compliance	<u>\$0 to \$40,000</u>	<u>\$0 to \$40,000</u>	<u>\$0 to \$40,000</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0 to \$40,000</u></b>	<b><u>\$0 to \$40,000</u></b>	<b><u>\$0 to \$40,000</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<u>\$0</u>	<u>\$0</u>	<u>\$0</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 requires individuals who have been convicted of, or pled guilty to, certain offenses to register as a sex offender if the sentencing judge determines that the property stolen was sexual in nature. These offenses are robbery in the first degree, robbery in the second degree, and stealing. Also, definitions are created for the terms "sexual conduct" and "sexual nature" as used in certain provisions of the act.


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



Julie Morff  
Director  
December 30, 2019



Ross Strobe  
Assistant Director  
December 30, 2019