

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3464-01
Bill No.: SB 733
Subject: Attorney General; Consumer Protection; Crimes and Punishment; Internet and E-mail; Liability
Type: Original
Date: January 3, 2020

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 2021	FY 2022	FY 2023
General Revenue	(\$321,104) to (\$421,104)	(\$337,007) to (\$437,007)	(\$340,339) to (\$440,339)
Total Estimated Net Effect on General Revenue	(\$321,104) to (\$421,104)	(\$337,007) to (\$437,007)	(\$340,339) to (\$440,339)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on Other 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 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

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

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 Assistant Attorney Generals 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 \$321,104 in FY 2021, \$337,007 in FY 2022, and \$340,339 in FY 2023.

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

Officials from the **Department of Corrections**, the **Office of the State Courts Administrator** and the **Department of Public Safety - Missouri Highway Patrol** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a measurable fiscal impact on their agency. 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.

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 \$153 of General Revenue appropriations (\$2 out of \$38.0 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 the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender I (starting salary of \$47,000) will cost

ASSUMPTION (continued)

approximately \$74,500 per year in personal service and fringe benefit costs. One additional Assistant Public Defender II (at \$52,100 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. If you include expense and equipment costs such as travel, training, furniture, equipment, and supplies, 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 appropriation and therefore will reflect a potential additional cost of (Less than \$100,000) to the General Revenue Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
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GENERAL REVENUE FUND

<u>Cost - AGO</u>			
Salaries (5 FTE)	(\$150,833)	(\$182,810)	(\$184,638)
Fringe Benefits	(\$98,092)	(\$118,311)	(\$118,918)
Equipment and Expense	(\$72,179)	(\$35,886)	(\$36,783)
<u>Total Cost - AGO</u>	<u>(\$321,104)</u>	<u>(\$337,007)</u>	<u>(\$340,339)</u>
FTE Change - AGO	5 FTE	5 FTE	5 FTE

<u>Costs - SPD - potential additional costs for representing the indigent in the new crime</u>	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
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ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(\$321,104) to <u>(\$421,104)</u>	(\$337,007) to <u>(\$437,007)</u>	(\$340,339) to <u>(\$440,339)</u>
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<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 shall be known and may be cited as the "Protect Young Minds Online Act".

Under this act, an internet service provider shall 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 information to their subscribers that includes a brief description of the provisions of this act requiring a password to access blocked content, the procedure for creating, recovering, and updating the password requiring multi-factor authentication for the account holder, and the penalty for individuals who share the password with minors which results in the exposure of minors to pornographic material.

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 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.

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.

FISCAL DESCRIPTION (continued)

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

The Attorney General may seek injunctive and other equitable relief against an internet service provider that fails to comply with the provisions of this 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

Office of the Attorney General
Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Office of the State Courts Administrator
Department of Public Safety - Missouri Highway Patrol



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January 3, 2020



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