

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3738-01  
Bill No.: SB 588  
Subject: Firearms; Civil Penalties; Political Subdivisions; Law Enforcement Officers and Agencies; Federal-State Relations  
Type: Original  
Date: January 22, 2020

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Bill Summary: This proposal creates additional protections to the right to bear arms.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
State Legal Expense (0692)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</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>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</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

#### §§1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485 - Right to bear arms

Officials from the **Office of Administration - General Services (OA/GS)** state §§1.460 and 1.470 appear to create a new cause of action. If a claim were successfully brought against a state agency or a state employee alleging a violation of this legislation, the Legal Expense Fund (LEF) could be required to pay such claim or claims. However, the number of potential claims, the severity of these claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state LEF, §105.711, RSMo. It is a self-funding mechanism whereby funds are available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

**Oversight** does not have any information contrary to that provided by OA/GS. Therefore, Oversight will reflect OA/GS's potential impact for fiscal note purposes to the State Legal Expense Fund.

Officials from the **Office of Attorney General (AGO)** assume any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation.

**Oversight** does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

**Oversight** notes that the **Department of Public Safety - Missouri State Highway Patrol** has stated the proposal would not have a direct fiscal impact on their organization. However, the Highway Patrol states SB 588 could potentially have a negative impact on officer recruiting and retention, increase the number of suits filed against law enforcement, increase costs associated with litigation, affect the Highway Patrol's relationship with federal and state law enforcement agencies, and place Missouri law enforcement and the criminal justice system at-large in opposition with long standing legal principals of federal supremacy.

ASSUMPTION (continued)

**Oversight** notes the concerns provided by the Highway Patrol are speculative and not direct impact of the bill; therefore, for fiscal note purposes, Oversight will reflect a zero impact on the fiscal note for the Missouri Highway Patrol.

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

**Oversight** notes the **Office of State Courts Administrator** has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for this agency.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>STATE LEGAL EXPENSE FUND (0692)</b>			
<u>Costs - OA/GS (§§1.460 and 1.470)</u>	<u>\$0 to</u>	<u>\$0 to</u>	<u>\$0 to</u>
Potential increase in successful litigation against the state and/or related entities	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE STATE LEGAL EXPENSE FUND</b>	<b><u>\$0 to</u></b> <b><u>(Unknown)</u></b>	<b><u>\$0 to</u></b> <b><u>(Unknown)</u></b>	<b><u>\$0 to</u></b> <b><u>(Unknown)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

## FISCAL DESCRIPTION

This act creates the "Second Amendment Preservation Act", and lists various declarations of the Missouri General Assembly regarding the United States Constitution and the scope of the federal government's authority. In addition, the act declares that federal supremacy does not apply to federal laws that restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition within the state because such laws exceed the scope of the federal government's authority. Laws necessary for the regulation of the land and the United States Armed Forces are excluded from the types of federal firearms laws that exceed federal authority. This act declares as invalid all federal laws that infringe on the right to bear arms under the Second Amendment to the U.S. Constitution and Article I, Section 23 of the Missouri Constitution. Some laws declared invalid under this act include certain taxes, certain registration and tracking laws, certain prohibitions on the possession, ownership, use, or transfer of a specific type of firearm, and confiscation orders.

The act declares that it is the duty of the courts and law enforcement agencies to protect the rights of law-abiding citizens to keep and bear arms.

Under this act, no public officer or state or local employee has the authority to enforce firearms law declared invalid by the act.

Any public officer or state or local employee who tries to enforce the firearms law declared invalid by the act or any person who acts under the color of law to deprive a Missouri citizen of rights or privileges ensured by the federal and state constitutions shall be liable for redress. In such an action attorney's fees and costs may be awarded, and official or qualified immunity shall not be available to the defendant as a defense. Such officer or employee may also be prohibited from serving as a law enforcement officer for the state or any political subdivision.

This act contains a severability clause.

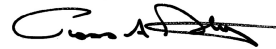
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office  
Department of Public Safety -  
Missouri State Highway Patrol  
Missouri Office of Prosecution Services  
Office of Administration  
Office of State Courts Administrator



Julie Morff  
Director  
January 22, 2020



Ross Strobe  
Assistant Director  
January 22, 2020