

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0524S.01I
 Bill No.: SB 72
 Subject: Courts; Crimes and Punishment; Identity Theft and Protection; Internet and E-Mail; Judges; Public Records, Public Meetings; Sunshine Law
 Type: Original
 Date: January 22, 2023

Bill Summary: This proposal establishes the Judicial Privacy Act, which provides restrictions on the use of a judicial officer's personal information.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	(Unknown, could exceed \$57,401)	(Unknown, could exceed \$58,134)	(Unknown, could exceed \$79,062)
Total Estimated Net Effect on General Revenue*	(Unknown, could exceed \$57,401)	(Unknown, could exceed \$58,134)	(Unknown, could exceed \$79,062)

*Oversight is unclear on how many claims could occur against a state employee for violating this proposal. Oversight assumes the cost would not reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Legal Expense Fund**	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds**	\$0	\$0	\$0

**Indicates numbers that net to zero.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** assume this proposal establishes the Judicial Privacy Act, which provides restrictions on the use of a judicial officer’s personal information. It creates a new class D felony for the offense of publicly posting the personal information of a judicial officer (or immediate family) on the internet. These actions are considered a nonviolent class D felony offense; therefore, the intent of the bill is to create a new class D felony offense.

For each new nonviolent class D felony, the DOC estimates three people could be sentenced to prison and five to probation. The average sentence for a nonviolent class D felony offense is 5 years, of which 2.8 years will be served in prison with 1.7 years to first release. The remaining 2.2 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the DOC is estimated to be 8 additional offenders in prison and 22 additional offenders on field supervision by FY 2028.

Change in prison admissions and probation openings with legislation-Class D Felony (nonviolent)

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	5	5	5	5	5	5	5	5	5	5
Cumulative Populations										
Prison	3	6	8	8	8	8	8	8	8	8
Parole			1	4	7	7	7	7	7	7
Probation	5	10	15	15	15	15	15	15	15	15
Impact										
Prison Population	3	6	8	8	8	8	8	8	8	8
Field Population	5	10	16	19	22	22	22	22	22	22
Population Change	8	16	24	27	30	30	30	30	30	30

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total cost for probation and parole	Change to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	3	(\$9,499)	(\$23,748)	0	\$0	5	(\$23,748)
Year 2	6	(\$9,499)	(\$58,134)	0	\$0	10	(\$58,134)
Year 3	8	(\$9,499)	(\$79,062)	0	\$0	16	(\$79,062)
Year 4	8	(\$9,499)	(\$80,643)	0	\$0	19	(\$80,643)
Year 5	8	(\$9,499)	(\$82,256)	0	\$0	22	(\$82,256)
Year 6	8	(\$9,499)	(\$83,901)	0	\$0	22	(\$83,901)
Year 7	8	(\$9,499)	(\$85,579)	0	\$0	22	(\$85,579)
Year 8	8	(\$9,499)	(\$87,291)	0	\$0	22	(\$87,291)
Year 9	8	(\$9,499)	(\$89,037)	0	\$0	22	(\$89,037)
Year 10	8	(\$9,499)	(\$90,817)	0	\$0	22	(\$90,817)

* If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$26.024 per day or an annual cost of \$9,499 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$87.46 per day or an annual cost of \$31,921 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's estimated impact for fiscal note purposes.

Officials from the **Department of Revenue (DOR)** assume the following:

Administrative Impact

To implement the proposed change, the DOR would be required to:

- Project development and oversight tasks;
- Coordinate with the Missouri Supreme Court to develop requirements for the data file specifications for electronic transfer of data;
- OA-ITSD to develop a secure process that is a format compatible with the Missouri Supreme Court system for the court to send the request with personal information attached;
- Complete programming and user acceptance testing of MODL to verify file transfer from Missouri Supreme Court and update confidential record indicators as required to restrict release of information;
- OA-ITSD Test the file generation and secure transfer process to ensure all required data elements are received as required;
- Obtain format and procedure approvals from Missouri Supreme Court as applicable;
- Test file transfer process, record updates, record sales and law enforcement inquiries to ensure accurate handling of these newly restricted record types;
- Update policies and procedures;
- Update forms, manuals, and the DOR website;
- Complete training as required.

FY2024-Driver License Bureau

Research/Data Analyst 80 hrs. @ \$25.63 =\$2,050

Administrative Manager 60 hrs. @ \$27.82 =\$1,669

Total \$3,719

FY 2024-Public Service Bureau

Associate Research/Data Analyst 20 hrs. @ \$17.20 =\$344

Total \$4,063

MVB:

Chapters in 476

- This bill creates the “Judicial Privacy Act,” which functions as a way for judges to request that their personal information not be posted or released. Judicial officers have to make a written request either directly to each agency, person, business, or association; or file through a clerk of the Supreme Court, asking them to refrain from disclosing the judicial officer’s personal information. The bill also requires that no one uses a judicial officer’s personal information in any way for the purposes of tampering with a judicial officer; being guilty of which would result in a class D felony.

Administrative Impact

To implement the proposed legislation the DOR will be required to:

- Update procedures, correspondence letters and the DOR website;
- Update the Missouri Titling Manual and Forms;
- Send Communications to License offices and other Contracted stakeholders; and
- Train Staff

FY 2024 – Motor Vehicle Bureau

Associate Research/Data Analyst 40 hrs. @ \$19.90/hr. = \$796.00

Lead Administrative Support Asst. 20 Hrs @ \$17.05 = \$341.00

Administrative Manager 5 Hrs @ \$26.96 = \$134.80

FY 2024 – Strategy and Communications Office

Associate Research/Data Analyst 20 hrs. @ \$19.90/hr. = \$ 398

Total Cost = \$1,669.80

DOR anticipates absorbing these costs and that there will be minimal impact. If multiple bills are passed that require DOR resources, FTE may be requested through the appropriations process.

Based on the assumption that the eligible record holders will be updated through a secure file process and not by processing of individual applications, the DOR does not expect to require additional FTE. The volume of potential individual requests for removal is unknown. If the volume of request increases beyond current staffing abilities, the DOR will be required to request appropriations for FTE.

The fiscal impact estimate in this response is based on changes in the current MO Driver License System environment. The DOR is pursuing an upgraded Motor Vehicle and Driver Licensing system and to reduce duplicative development and reduce cost the sponsor may want to consider an delayed effective date that would allow the proposed changes be developed within the new proposed environment.

Oversight notes DOR anticipates having a one-time IT cost of \$33,653 for 354.24 hours of work at \$95 per hour in FY 2024.

Oversight is unclear on the timeframe for updating DOR's Motor Vehicle and Driver Licensing software system and will, therefore, reflect costs estimates as provided by DOR as if the changes were implemented starting in FY24.

Officials from the **Office of Administration (OA)** state this proposal provides restrictions on the use of a judicial officer's personal information and establishes civil remedies for violation, including costs and attorney fees. These provisions have the potential to increase costs to the Legal Expense Fund (LEF) if a claim were successfully brought against a state employee for violation of this legislation.

Oversight does not have information to the contrary and therefore, Oversight will reflect a \$0 to unknown cost to General Revenue (as reimbursement to the Legal Expense Fund) and the LEF as provided by the OA.

Officials from the **Metropolitan St. Louis Sewer District** state that staff time would be necessary to note accounts when written requests are received to not provide personal identifiable information, and also to redact that information from any future sunshine law requests received for that information.

Officials from the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials from the **Department of Commerce and Insurance, the Department of Economic Development, the Department of Elementary and Secondary Education, the Department of Higher Education and Workforce Development, the Department of Health and Senior Services, the Department of Mental Health, the Department of Natural Resources, the Department of Labor and Industrial Relations, the Department of Public Safety (Office of the Director, Capitol Police, Alcohol & Tobacco Control, Fire Safety, Gaming Commission, Missouri Highway Patrol, Missouri National Guard, State Emergency Management Agency and Veterans Commission), the Department of Social Services, the Joint Committee on Administrative Rules, the Joint Committee on Public Employee Retirement, the Missouri Lottery Commission, the Missouri Consolidated Health Care Plan, the Department of Agriculture, the Missouri Department of Conservation, the Missouri Ethics Commission, the Missouri House of Representatives, the Department of Transportation, the Office of Administration (Administrative Hearing Commission), the Office of the State Auditor, the Missouri Senate, the Office of the State Public Defender, the MODOT & Patrol Employees' Retirement System, the Petroleum Storage Tank Insurance Fund, the City of Kansas City, the City of Springfield, the Jackson County Board of Elections, the Kansas City Board of Elections, the Platte County Board of Elections, the St. Louis County Board of Elections, the Newton County Health Department, the St. Louis County Health Department, the Lincoln County Assessor's Office, the Clay County Auditor's Office, the Phelps County Sheriff's Office, the Kansas City Police Department, the St. Joseph Police Department, the St. Louis County Police Department, the County Employees Retirement Fund, the Kansas City Employees' Retirement System, the Kansas City Firefighter's Pension System, the Kansas City Public School Retirement System, the Kansas City Supplemental Retirement Plan, the Local Government Employees Retirement System, the Public Education Employees' Retirement System, the Sheriff's Retirement System, the Blackwater Reorganized Common Sewer District, the Little Blue Valley Sewer District, the Morgan County PWS #2, the South River Drainage District, the Wayne County PWS #2, the University of Central Missouri, the St. Charles Community College, the Joint Committee On Education, Legislative Research, the Oversight Division, the Missouri Higher Education Loan Authority, the Missouri State Employees Retirement System, the**

Hancock Street Light District, the Metropolitan St. Louis Sewer District Employees Pension Plan, the Office of the Governor, the Office of the Lieutenant Governor, the Missouri Office of Prosecution Services, St. Louis City, the Cole Camp Ambulance District and the State Tax Commission each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have 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 these agencies.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, local election authorities, county health departments, recorder of deeds, nursing homes, county assessors, county auditors, circuit clerks, county collectors, county prosecutors, county treasurers, county public administrators, local law enforcement, fire protection districts, ambulance districts, school districts, hospitals and colleges were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Cost – DOC - Increased incarceration costs p. 4</u>	(\$23,748)	(\$58,134)	(\$79,062)
<u>Cost – DOR – One-time IT Costs p. 6</u>	(\$33,653)	\$0	\$0
<u>Cost – OA – potential payout of claims to LEF against a state employee for violating this proposal</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Unknown, could exceed \$57,401)</u>	<u>(Unknown, could exceed \$58,134)</u>	<u>(Unknown, could exceed \$79,062)</u>

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> – increase in appropriations to cover additional payouts	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> – OA – potential payout claims against a state employee for violating this proposal	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses which do not follow the provisions of the proposal could be fiscally affected and could be charged criminally.

FISCAL DESCRIPTION

This act establishes the "Judicial Privacy Act", which provides restrictions on the use of a judicial officer's personal information.

Upon receiving a written request, a government agency, as defined in the act, shall not publically post or display a judicial officer's personal information in publicly available content, which includes documents or records that may be obtained by any person or entity, from the internet, upon request to the government agency, or in response to a request pursuant to the Missouri Sunshine Law or the federal Freedom of Information Act. After the government agency has removed the judicial officer's personal information from publicly available content, the government agency shall not publically post or display the information and such information shall be exempted from the Missouri Sunshine Law, unless the government agency has received consent from the judicial officer to make the information available to the public. If a government agency fails to comply with a written request, the judicial officer may bring an action for injunctive or declaratory relief in any court of competent jurisdiction.

No person, business, or association shall publically post or display on the internet content that includes a judicial officer's personal information, provided that the judicial officer has made a written request to the person, business, or association that it refrain from disclosing the personal information. Additionally, this act provides that no person, business, or association shall solicit, sell, or trade on the internet a judicial officer's personal information for purposes of harassing, intimidating, or influencing a judicial officer in violation of the offense of tampering with a judicial officer or with the intent to pose an imminent and serious threat to the health and safety of the judicial officer or the judicial officer's immediate family.

A person, business, or association shall have five business days to remove the judicial officer's personal information after receiving a written request. Additionally, after receiving a request, the person, business, or association shall continue to ensure that the judicial officer's personal information is not made available on any website controlled by the person, business, or association and shall not transfer through any medium the judicial officer's personal information to any other person, business, or association.

If a judicial officer's personal information is made public in violation of this act, the judicial officer may bring an injunctive or declaratory action in any court of competent jurisdiction. If the court grants injunctive or declaratory relief, the person, business, or association responsible for the violation shall be required to pay the judicial officer's costs and reasonable attorney's fees.

No government agency, person, business, or association shall have violated this act if the judicial officer fails to submit a written request calling for the protection of the officer's personal information. A written request shall be valid if the judicial officer sends a written request directly to a government agency, person, business, or association, or if the judicial officer complies with a Missouri Supreme Court rule for filing of a written request to the clerk of the Missouri Supreme Court or the clerk's designee to notify government agencies.

Each calendar quarter, the clerk of the Missouri Supreme Court shall provide a list of all state judicial officers who have submitted a request to the appropriate officer with ultimate supervisory authority for a government agency. The officer shall promptly provide a copy to all agencies under his or her supervision. Receipt of the clerk's written request list shall constitute a written request to the agency for purposes of this act.

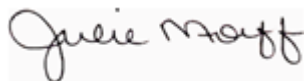
Furthermore, this act provides that it shall be a class D felony for any person to knowingly publicly post or display on the internet the personal information of a judicial officer or of the judicial officer's immediate family for purposes of harassing, intimidating, or influencing a judicial officer in violation of the offense of tampering with a judicial officer or with the intent to pose an imminent and serious threat to the health and safety of the judicial officer or the judicial officer's immediate family, and such violation is a proximate cause of bodily injury or death of the judicial officer or a member of his or her immediate family.

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 State Courts Administrator
Department of Commerce and Insurance
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Mental Health
Department of Natural Resources
Department of Labor and Industrial Relations
Department of Public Safety
Department of Social Services
Joint Committee on Administrative Rules
Joint Committee on Public Employee Retirement
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri House of Representatives
Department of Transportation
Office of Administration
Office of the State Auditor
Missouri Senate
Office of the State Public Defender
MODOT & Patrol Employees' Retirement System
Petroleum Storage Tank Insurance Fund
City of Kansas City
City of Springfield
Jackson County Board of Elections
Kansas City Board of Elections
Platte County Board of Elections
St. Louis County Board of Elections
Newton County Health Department
St. Louis County Health Department
Lincoln County Assessor's Office
Clay County Auditor's Office
Phelps County Sheriff's Office
Kansas City Police Department
St. Joseph Police Department
St. Louis County Police Department
County Employees Retirement Fund

Kansas City Employees' Retirement System
Kansas City Firefighter's Pension System
Kansas City Public School Retirement System
Kansas City Supplemental Retirement Plan
Local Government Employees Retirement System
Public Education Employees' Retirement System
Sheriff's Retirement System
Blackwater Reorganized Common Sewer District
Little Blue Valley Sewer District
Morgan County PWSD #2
South River Drainage District
Wayne County PWSD #2
University of Central Missouri
St. Charles Community College
Joint Committee on Education
Legislative Research
Oversight Division
Missouri Higher Education Loan Authority
Missouri State Employees Retirement System
Hancock Street Light District
State Tax Commission
Metropolitan St. Louis Sewer District Employees Pension Plan
Office of the Governor
Office of the Lieutenant Governor
Missouri Office of Prosecution Services
St. Louis City
Cole Camp Ambulance District



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