

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2821S.01I
 Bill No.: SB 1004
 Subject: Firearms; Crimes and Punishment; Law Enforcement Officers and Agencies;
 Public Officers; State Departments; Federal - State Relations; Judges; Courts
 Type: Original
 Date: January 16, 2024

Bill Summary: This proposal creates the Anti-Red Flag Gun Seizure Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Oversight assumes the addition of a civil penalty of \$50,000 per occurrence for any violations of §1.486 could possibly reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Other State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
State Legal Expense Fund (062)**	\$0	\$0	\$0
Colleges and Universities	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
State Highways and Transportation Department Fund (0644)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Water Patrol Division Fund (0400)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

**Indicates numbers that net to zero. Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Federal Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes the loss of federal funding would not reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Local Government	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§1.486 – Anti-red flag gun seizure act

Officials from the **Office of Administration (OA)** state this legislation creates provisions and damages relating to seizure of firearms and includes a waiver of sovereign immunity for actions brought under this section. This has the potential to increase costs to the LEF but would be subject to judicial construction; therefore, the cost is unknown.

Oversight does not have any information contrary to that provided by OA. Therefore, Oversight will reflect OA's potential unknown impact for fiscal note purposes to the State Legal Expense Fund. Oversight notes the Legal Expense Fund is funded by the General Revenue Fund as well as other state funds. Oversight notes this possible litigation exposure as described by OA could also apply to colleges and universities, federal funds, as well as local political subdivisions.

Officials from the **Department of Public Safety – Missouri Highway Patrol (MHP)** state Section 1.486.6(1) creates a right to sue the law enforcement agency for a minimum of \$50,000 per occurrence along with punitive damages and attorney's fees. The Patrol has no way of computing the number of allegations it may have to defend. Due to this, the impact is listed as unknown to General Revenue, the State Highways and Transportation Department Fund (0644), the Water Patrol Division Fund (0400), and Federal Funds (0152). The three impacted state funds are the primary funding sources for enforcement personnel.

Additionally, Section 1.486.2 and Section 1.486.4 could restrict the Patrol's participation in federal funded task forces and prevent and/or stop the Patrol from receiving some or all the federal funding related to task force participation.

Finally, Section 1.486.6(5) waives sovereign immunity, which could account for funding for the defense of future civil litigation.

Oversight does not have any information contrary to that provided by MHP. Therefore, Oversight will reflect MHP's impact as \$0 or an Unknown loss to the funds listed above. Oversight assumes the amounts related to confiscation of firearms, accessories or ammunition would not reach the \$250,000 threshold.

Officials from the **Office of Administration - Budget and Planning (B&P)** state this proposal creates additional penalty provisions. To the extent any fines or related revenues are deposited into the state treasury, Total State Revenues may increase.

Oversight notes that violations of section 1.486.6(1) could result in fines or penalties. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fine varies widely from year to year and are

distributed to the school district where the violation occurred. Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

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

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.

Officials from the **Missouri Department of Conservation**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the cities of **Kansas City**, **O’Fallon**, **Springfield**, and **Urich**, the **Phelps County Sheriff’s Department**, the **Branson Police Department**, the **Kansas City Police Department**, and the **St. Louis County Police Department** each assume the proposal will have no 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, and local law enforcement 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.

This proposal has an emergency clause.

<u>FISCAL IMPACT – State Government</u>	FY 2025	FY 2026	FY 2027
GENERAL REVENUE			
<u>Cost</u> – MHP (§1.486) Potential loss of funding	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Transfer Out</u> – to the State Legal Expense Fund (§1.486) Potential increase in litigation	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – State Government</u>	FY 2025	FY 2026	FY 2027
OTHER STATE FUNDS			
<u>Cost Increase</u> - (\$1.486) Potential increase in transfer to LEF	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
STATE LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> – (\$1.486) From General Revenue	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost Increase</u> - (\$1.486) Potential increase in litigation	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON THE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
COLLEGES AND UNIVERSITIES			
<u>Cost Increase</u> - (\$1.486) Potential increase in litigation	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT – State Government</u>	FY 2025	FY 2026	FY 2027
STATE HIGHWAYS AND TRANSPORTATION DEPARTMENT FUND (0644)			
<u>Cost – MHP (\$1.486) Potential loss of funding</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON THE STATE HIGHWAYS AND TRANSPORTATION FUND	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
WATER PATROL DIVISION FUND (0400)			
<u>Cost – MHP (\$1.486) Potential loss of funding</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON THE WATER PATROL DIVISION FUND	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
FEDERAL FUNDS			
<u>Cost Increase - (\$1.486) Potential increase in litigation</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
<u>Cost – MHP (\$1.486) Potential loss of funding</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> – School districts (§1.486) Fines from violations	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> - (§1.486) Potential increase in litigation and/or civil penalty costs	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or</u> <u>Unknown to</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>Unknown to</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>Unknown to</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

This act establishes the "Anti-Red Flag Gun Seizure Act" which provides that any federal order of protection or other federal judicial or executive order which directs the seizure of a firearm or prohibits the possession of a firearm, except any person who cannot possess a firearm under state law or is otherwise required to surrender any firearm as part of a criminal investigation, shall not be enforced in this state.

Additionally, no public agency, political subdivision, or law enforcement agency shall receive any federal funding for the purpose of enforcing any federal acts or judicial orders confiscating any firearms, firearm accessories, or ammunition. Any political subdivision or law enforcement officer who violates this act shall be subject to a \$50,000 penalty per occurrence.

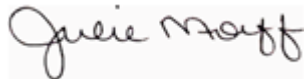
Sovereign immunity shall not be an affirmative defense.

This act contains an emergency clause.

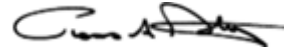
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Public Safety - Missouri Highway Patrol
Missouri Department of Conservation
Missouri Office of Prosecution Services
Office of Administration
Office of Administration - Budget and Planning
Office of the State Courts Administrator
City of Kansas City
City of O'Fallon
City of Springfield
City of Urich
Phelps County Sheriff's Department
Branson Police Department
Kansas City Police Department
St. Louis County Police Department



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