

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0626S.01I
 Bill No.: SB 135
 Subject: Business and Commerce; Federal - State Relations; Firearms; Law Enforcement
 Officers and Agencies; Weapons
 Type: Original
 Date: January 30, 2025

Bill Summary: This proposal modifies provisions relating to additional protections to bear arms.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 total state fiscal impact could exceed \$250,000 due to the potential for civil action and the addition of a civil penalty of \$50,000 per occurrence for any violations of §§1.460 and 1.470.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
State Legal Expense Fund (0692)**	\$0	\$0	\$0
Other State Funds**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Colleges and Universities**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other State Funds</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

**The potential fiscal impact to various state funds (and local political subdivisions) stems from a new cause of action that can be brought against the state and other entities in §1.460.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 funds could reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Local Government*	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)

*Fine revenue from violations and potential litigation costs.

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 of this legislation creates provisions and damages relating to firearm deprivation 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/GS. Therefore, Oversight will reflect OA/GS'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 **Office of Administration - Budget and Planning (B&P)** state Article IX, Section 7 of the Missouri Constitution requires that penalties, forfeitures, and fines collected for violations of state law be distributed to the schools. To the extent any additional such revenues are deposited into the state treasury, TSR may increase.

Oversight notes that violations of §§1.460 and 1.470 could result in a civil penalty of \$50,000 per occurrence. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fines vary 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 **Department of Corrections (DOC)** state this proposal modifies provisions relating to additional protects to bear arms.

The DOC assumes a \$0 impact; however, section 1.470 could create an increase in legal claims against the department. Should this occur, the department could see significant fiscal and operational impacts.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** state the proposal would not have a direct fiscal impact on their organization. The present iteration of the Second Amendment Preservation Act (SAPA) has caused disruption to enforcement action, which this proposal would likely continue. Further, the present SAPA language has been ruled unconstitutional and not severable by the 8th Circuit Court of Appeals, although that decision is still subject to appeal.

In addition, Section 1.460.3 strips the Patrol of any sovereign, official, or qualified immunity and awards attorney's fees to the prevailing party. This act might result in an increased financial cost at the expense of law enforcement and, ultimately, Missouri taxpayers.

Officials from the **City of Kansas City** state the proposed legislation has a negative fiscal impact of an indeterminate amount.

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

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 **Department of Revenue, the Missouri Department of Conservation, the Missouri Office of Prosecution Services, the Office of the State Courts Administrator, the Office of the State Public Defender, the Phelps County Sheriff's 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 only reflects the responses that we have received from state agencies and political subdivisions; however, other local law enforcement, cities, and counties were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2026	FY 2027	FY 2028
GENERAL REVENUE			
<u>Transfer Out – to the State Legal Expense Fund – OA-GS (§§1.410 to 1.485) Potential increase in litigation</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>

<u>FISCAL IMPACT – State Government</u>	FY 2026	FY 2027	FY 2028
STATE LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> – from General Revenue and other State and Federal funds	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> – OA/GS (§§1.410 to 1.485) Potential increase in litigation	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON THE STATE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
OTHER STATE FUNDS			
<u>Transfer Out</u> – to the State Legal Expense Fund – OA-GS (§§1.410 to 1.485) Potential increase in litigation	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
COLLEGES AND UNIVERSITIES			
<u>Cost</u> – (§§1.410 to 1.485) Potential increase in litigation	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
FEDERAL FUNDS			
<u>Cost</u> - (§1.486) Potential increase in litigation	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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 2026	FY 2027	FY 2028
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> – School districts (§§1.460 and 1.470) Fines from violations	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> - (§§1.410 to 1.485) Potential increase in litigation and/or civil penalty costs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or Unknown to (Unknown)</u>	<u>\$0 or Unknown to (Unknown)</u>	<u>\$0 or Unknown to (Unknown)</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

SECOND AMENDMENT PRESERVATION ACT (Sections 1.410, 1.420, 1.430, 1.440, 1.450, 1.460, 1.470, 1.480, and 1.485)

This act amends the sections of law which were declared unconstitutional in United States v. Missouri.

This act creates the "Second Amendment Preservation Act".

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 as provided in the act.

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 laws declared invalid by the act. However, state employees may accept aid from federal officials

in an effort to enforce Missouri laws. Sovereign immunity shall not be an affirmative defense under this 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 subject to a civil penalty of \$50,000 per employee hired by the law enforcement agency. In such an action attorney's fees and costs may be awarded.

Additionally, a person shall have standing to pursue an action for injunctive relief in the circuit court of the county in which the action allegedly occurred or in the circuit court of Cole County. The court shall hold a hearing on the motion for a temporary restraining order and preliminary injunction within 30 days of service of the petition.

It shall not be a violation of this act to provide aid to federal officials who are in pursuit of a suspect when there is a demonstrable criminal nexus with another state or county and the suspect is not a citizen of this state or is not present in this state. It shall not be a violation of this act to aid a federal prosecution for felony crimes involving a weapons violation against a person or for felony crimes involving a weapons violation and a controlled substance violation if such violation is a class A or B felony.

The provisions of this act shall be applicable to offenses occurring on or after August 28, 2025. This act contains a severability clause and 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 Corrections
Department of Public Safety - Missouri Highway Patrol
Department of Revenue
Missouri Department of Conservation
Missouri Office of Prosecution Services
Office of Administration
Office of the State Courts Administrator
Office of the State Public Defender
City of Kansas City

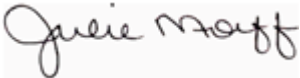
L.R. No. 0626S.011

Bill No. SB 135

Page 8 of 8

January 30, 2025

Phelps County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department



Julie Morff
Director
January 30, 2025



Jessica Harris
Assistant Director
January 30, 2025