

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1188S.02C
Bill No.: SCS for SB 23
Subject: Business and Commerce; Federal - State Relations; Firearms; Law Enforcement
Officers and Agencies; Weapons
Type: Original
Date: March 3, 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 violation of §§1.461 and 1.471.

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</u> State Funds	\$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 §§1.451 and 1.461.

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

§§1.411, 1.451, 1.461, 1.471, 1.481, and 1.484 – Right to bear arms

Officials from the **Office of Administration – General Services (OA/GS)** state §§1.451 and 1.461 creates provisions and damages relating to firearm deprival and includes a waiver of sovereign immunity for actions brought under these sections. 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 §§1.461 and 1.471 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 protections to bear arms.

The DOC assumes a \$0 impact; however, sections 1.461 and 1.471 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 1.461.3 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 **Branson Police Department** state the proposed legislation has the potential to have a severe impact on this agency and/or its officers. Since each violation carries a \$50,000 fine, and this is uncharted waters related to this bill and future case law that will result from it, the impact on an agency or officers that make a good faith mistake could be catastrophic.

In response to a previous version, officials from the **Office of Attorney General (AGO)** assumed 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 **City of O'Fallon**, the **City of Osceola**, 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 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE			
<u>Transfer Out</u> – to the State Legal Expense Fund – OA-GS (§§1.411 to 1.484) Potential increase in litigation	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
STATE LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> – from General Revenue and other State and Federal funds	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
<u>Cost</u> – OA/GS (§§1.411 to 1.484) Potential increase in litigation	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
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 (§§1.411 to 1.484) Potential increase in litigation	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
COLLEGES AND UNIVERSITIES			
<u>Cost</u> – (§§1.411 to 1.484) Potential increase in litigation	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
FEDERAL FUNDS			
<u>Cost</u> - (§§1.411 to 1.484) Potential increase in litigation	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> – School districts (§§1.461 and 1.471) Fines from violations	<u>\$0 to</u> <u>Unknown</u>	<u>\$0 to</u> <u>Unknown</u>	<u>\$0 to</u> <u>Unknown</u>
<u>Cost</u> - (§§1.411 to 1.484) Potential increase in litigation and/or civil penalty costs	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</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 amends the sections of law which were declared unconstitutional in *United States v. Missouri*.

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.

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.

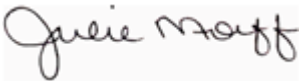
The provisions of this act shall be applicable to offenses occurring on or after August 28, 2025.

This act contains a severability clause.

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
City of O'Fallon
City of Osceola
Phelps County Sheriff's Department
Branson Police Department
Kansas City Police Department
St. Louis County Police Department



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