

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO. 0132-02
BILL NO. SB 21
SUBJECT: Law Enforcement Officers and Agencies; Civil Procedures; Evidence; Property,
 Real and Personal; Federal-State Relations.
TYPE: Original
DATE: January 2, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$0 to Unknown)	(\$0 to Unknown)	(\$0 to Unknown)
School Building Revolving Fund	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>All</u> State Funds	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Federal	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

The **Office of Prosecution Services**, the **Office of the Attorney General**, the **Missouri National Guard** and the **Department of Public Safety - Director's Office** each assume the proposed legislation would have no fiscal impact on their agencies.

The **Office of the State Courts Administrator (CTS)** assumes the proposed legislation would provide a statutory procedure for local law enforcement to transfer property seized in a criminal case to a federal agency for distribution under federal law. CTS assumes it has no basis upon which to estimate any losses to school funds which may occur; however, it does not expect any appreciable fiscal impact on the state judiciary.

The **Department of Elementary and Secondary Education** assumes the proposed legislation could increase the amount of money (forfeitures) to the School Building Revolving Fund to be available to districts for facility construction at a low interest rate. The extent of this increase is unknown. Under current law, FY 2001 fines and forfeitures receipts into the School Building Revolving Fund are estimated to be \$200,000. There is no effect on the state foundation formula.

Officials from the **Department of Public Safety - State Water Patrol (DWS)** state that they generally have less than \$100,000 in seizure funds and that they annually report to the Federal Department of the Treasury and the Department of Justice the expenditures and cash/property received. The DWS assumes the cost of an independent audit of their agency would be roughly \$1,500.

Oversight assumes the State Water Patrol could absorb that cost within current budgetary constraints.

The **Department of Public Safety - Missouri State Highway Patrol (MHP)** assumes the proposed legislation would revise the CAFA law. It adds a section that defines "seizure" as being the point at which a law enforcement officer or agent discovers and exercises any type of control over property. In addition, a new section is added which permits state or local law enforcement agencies to make a limited transfer of seized property to a federal agency to complete an investigation, but the state retains jurisdiction of the forfeiture proceeding. This transfer requires the approval of the prosecuting attorney in the county where the seizure took place.

MHP officials indicated that monies derived from the federal asset forfeiture program support a good part of the law enforcement effort against drugs. This proposal could potentially cause the

ASSUMPTION (continued)

loss of millions of dollars in federal monies, requiring additional general revenue appropriations to continue operations. If federal monies currently received are not available in the future, either current narcotics investigations would have to be curbed or additional general revenue monies would be necessary to continue operations. MHP noted that their agency has received over \$1,000,000 per year to the Drug Forfeiture Fund through FY 1999.

Oversight assumes the proposed legislation would cause an unknown loss of federal funds to local law enforcement.

FISCAL IMPACT - State Government FY 2002 FY 2003 FY 2004

SCHOOL BUILDING REVOLVING FUND

Increase in forfeitures Unknown Unknown Unknown

GENERAL REVENUE FUND

Cost - Department of Public Safety - Missouri (\$0 to (\$0 to (\$0 to
State Highway Patrol Unknown) Unknown) Unknown)

FEDERAL FUNDS

Loss of funds - Department of Public Safety - (Unknown) (Unknown) (Unknown)
Missouri State Highway Patrol

FISCAL IMPACT - Local Government FY 2002 FY 2003 FY 2004

LOCAL LAW ENFORCEMENT

Loss of federal funds (Unknown) (Unknown) (Unknown)

FISCAL IMPACT - Small Business

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

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DESCRIPTION

This proposed legislation revises the Criminal Activity Forfeiture Act (CAFA). The proposal defines "seizure" as the point at which law enforcement discovers and exercises any type of control over property subject to forfeiture.

The proposal also authorizes a temporary transfer of property seized by state or local authorities to a federal agency based on prosecutorial approval alone, for the limited purpose of completing a criminal investigation in another jurisdiction. The state would retain jurisdiction over the property to obtain its return for a civil forfeiture proceeding. The act amends the requirement for transfer of a case to a federal agency, upon showing that activity giving rise to the seizure involves more than one state, or when it is reasonably likely that federal criminal charges will be filed, based on a written statement of intent to prosecute from the U.S. Attorney with jurisdiction.

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

Department of Public Safety
Missouri Highway Patrol
Missouri Water Patrol
Missouri National Guard
Office of the Attorney General
Department of Elementary and Secondary Education
Office of State Courts Administrator
Office of Prosecution Services



Jeanne Jarrett, CPA
Director
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