

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0623-03
Bill No.: SCS for SBs 214, 124, 209 & 322
Subject: Crimes and Punishment; Children and Minors
Type: Original
Date: February 26, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(Exceeds \$100,000)	(Exceeds \$100,000)	(Exceeds \$100,000)
Total Estimated Net Effect on <u>All</u> State Funds	(Exceeds \$100,000)	(Exceeds \$100,000)	(Exceeds \$100,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 6 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator, Department of Health, Department of Mental Health, Department of Elementary and Secondary Education** each assume the proposed legislation will not fiscally impact their respective agencies.

In response to other legislation that comprises this substitute, officials from the **Office of the Attorney General** and the **Office of Prosecution Services** assumed that any additional cost resulting from this proposal could be absorbed within their respective agencies.

In response to other legislation that comprises this substitute, officials from the **Office of the State Public Defender** assumes that existing staff could provide representation for those few cases arising where indigent persons were charged with controlling obscene material that has a minor as one of its participants or where indigent persons were charged with repeat sexual misconduct. However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover cumulative cost of representing the indigent accused in the additional cases.

In response to other legislation that comprises this substitute, officials from the **Department of Social Services** assumed they will not fiscally impacted by the proposal.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state this proposal is federally mandated in the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

The MHP assumes that the method of providing sex offender information will not be computerized and will not involve the Internet. If this assumption is incorrect or if the intent of the legislation is different than our interpretation, it will be necessary for the MHP to revise the anticipated fiscal impact.

The Patrol's Criminal Records and Identification Division has approximately 7,200 sex offenders registered and residing within the State of Missouri. This is an increase of 1,300 from December 1999. The Criminal Records staff (Criminal History Technicians) will be required to review the registration information on each offender for completeness and accuracy and obtain missing information prior to releasing any information regarding an offender. The staff will also be required to receive questions and complaints, reference the sex offender registry files and obtain vehicle descriptions and up-to-date location and telephone number of the offenders' supervisor through the Department of Corrections. To initiate a registry that would discharge only pertinent data relative to the risk classification and provide quality control prior to the release of the data

ASSUMPTION (continued)

would be a very important function of this division.

The Criminal Records Division would require 2 additional FTE as a result of the proposed legislation.

1 Criminal History Technician Supervisor - \$26,160

1 Criminal History Technician - \$21,300

The FTE would be responsible for reviewing the registration information for completeness and accuracy, obtain missing information, verify critical information relative to the risk factor, receive questions and complaints reference the sex offender registry. Information not accessible in the Criminal Records and Identification Division as required per the legislation would have to be obtained on each offender to make the Sex Offender Registry complete. All standard office equipment would be required for these 2 positions.

Oversight assumes the MHP could handle the public inquiries made regarding the convicted sex offenders with existing resources. Oversight assumes much of the information regarding the sex offender will be provided by the Department of Corrections. Oversight also assumes that, if after further implementation, the MHP feels the need for additional FTE to administer this proposal are warranted, they could request the resources through the normal budget process.

Officials from the **Department of Corrections (DOC)** stated the proposal changes various statutes regarding sexual crimes and that the following components of this bill may have fiscal impact for the DOC:

§ 556.036 -- Removes statute of limitations for the unclassified crimes of Forcible Rape and Attempted Forcible Rape (566.030, RSMo) and Forcible Sodomy (566.060). Currently these crimes can be charged as class A felonies (with no time limit before prosecution) so it is estimated this proposed clarification will have minimal fiscal impact for the DOC.

§ 566.093 -- Enhances the penalty for Sexual Misconduct 2 (when 2 priors exist) from a class A misdemeanor to a class D felony. In FY00 there were 13 probation cases for SM2 and 5 for an offender with a prior conviction. Using 5 to 13 as a recidivism ratio, it is likely that 1 of the 5 may be a persistent (2 priors) offender and thus be charged with a class D felony. DOC estimates a minimal fiscal impact, absorbable within existing resources.

§ 573.037 -- Enhances the crime of possession of child pornography in the areas of conviction criteria and penalty provisions. DOC has only had 1 probation case for this crime in the last 2 years. There may be some increase in fiscal impact for the DOC but it should be of a minimal

ASSUMPTION (continued)

amount capable of being absorbed within current resources.

§ 589.430 -- Costs of risk assessments for DOC for sex offenders range from an estimate of approximately \$215 to \$415, depending on whether hourly staff conduct these assessments or whether the service is contracted out. Sex offender cases that were open to probation accounted for 653 persons in calendar year 1998 and 738 persons in 1999. There is an average of 457 sex offenders released from DOC prisons per year.

Costs that may be associated with a multi-discipline committee are daily per-diem expenses for committee members on meeting days, potential costs for meeting rooms, and costs associated with publication of Notice Guidelines. There may be additional unknown costs associated with victim notification. In summary, the potential cost for the DOC is a substantial amount or one that could exceed \$100,000 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Cost - Department of Corrections</u>	(Exceeds \$100,000)	(Exceeds \$100,000)	(Exceeds \$100,000)
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	<u>(Exceeds \$100,000)</u>	<u>(Exceeds \$100,000)</u>	<u>(Exceeds \$100,000)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2002 (10 Mo.)	 FY 2003	 FY 2004
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

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

DESCRIPTION

Currently, a crime which is a Class A felony has no statute of limitations, meaning a prosecution may be commenced at any time when a suspect is apprehended. The act removes the statute of limitations for the crimes of forcible rape, attempted forcible rape and forcible sodomy - currently unclassified felonies are subject to a three-year statute of limitation.

Chapter 566.093 describes the crime of sexual misconduct, which is punishable as a class B misdemeanor, or a class A misdemeanor for persons who have previously pled guilty to or been convicted of the provisions in Chapter 566.093. This proposal makes it punishable as a class D felony, for persons who have twice previously pled guilty to or been convicted of the provisions in Chapter 566.093.

Currently, a person commits a crime by possessing any obscene material with a child as a participant or observer of sexual conduct. This proposal provides that a person commits the crime by possessing or controlling any obscene material that has a minor as a participant or by possessing or controlling any material that shows a minor participating or engaging in sexual conduct. The proposal also increases the penalty from a Class A misdemeanor to a Class D felony; if the defendant has pleaded or been found guilty of a prior Chapter 566, RSMo, offense, the penalty is a Class C felony.

This proposal also makes changes to the sexual offender registration requirements. The proposal also clarifies that a person obligated to register after committing a sexual offense must not only do so within 10 days of coming into a new county, but must also register within 10 days of release if the offender is staying in the county where incarcerated. Offenders who have not previously registered are required to do so by September 10, 2001.

This proposal also allows for community notification regarding certain registered sex offenders. The act provides immunity for release of information by law enforcement and by employees of the Departments of Corrections, Public Safety, and Social Services. Prior to releasing a sex offender, the Department of Corrections is required to perform a risk assessment of any offender required to register as a sex offender. The act tailors the extent of any community notification to the assessment results.

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

SOURCES OF INFORMATION

Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Office of the Attorney General
Department of Social Services
Department of Health
Department of Mental Health
Department of Elementary and Secondary Education



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