

COMMITTEE ON LEGISLATIVE RESEARCH
 OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3059-05
Bill No.: HCS for SS for SB 665
Subject: Education, Elementary and Secondary; Libraries and Archives;
 Telecommunications; Secretary of State
Type: # Corrected
Date: May 14, 2002
 # Corrected to Change Dates on Fiscal Impact Summary

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	#FY 2003	#FY 2004	#FY 2005
General Revenue	(\$24,130 to less than \$124,130)	(\$26,544 to less than \$124,130)	(\$27,200 to less than \$127,200)
Total Estimated Net Effect on All State Funds	(\$24,130 to less than \$124,130)	(\$26,544 to less than \$126,544)	(\$27,200 to less than \$127,200)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	#FY 2003	#FY 2004	#FY 2005
Total Estimated Net Effect on All Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	#FY 2003	#FY 2004	#FY 2005
Local Government*	(Unknown)	(Unknown)	(Unknown)

*Estimated to exceed \$100,000 annually.
 Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** assume the proposal would result in no fiscal impact to their agency.

Officials from the **Office of Attorney General** indicated in the introduced version of this proposal that the proposed legislation would have no fiscal impact on their agency.

Officials from the **Secretary of State's Office (SOS)** assume the rules, regulations and forms issued by the Office of the Secretary of State, the Department of Public Safety, and the Department of Elementary and Secondary Education could require as many as 20 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in the Code. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations is \$27. The actual costs could be more or less the SOS's estimated cost of \$1,230 for FY 2003. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded or withdrawn.

Oversight assumes the Secretary of State could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the Secretary of State could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

SECTIONS 43.653 through 43.659

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state this proposed legislation would authorize the creation of the Missouri Regional Computer Forensic Lab. MHP states the proposed legislation only authorizes the Patrol to create the "Missouri Regional Computer Forensics Lab". Since it does not require it, there would not be a fiscal impact. The actual creation of the lab would depend on the availability of federal grant money, not state money.

Officials from the **Office of Administration - Division of Information Services** and **Office of Information Technology** state this proposal would not fiscally impact their respective agencies.

SECTIONS 182.825 and 182.827

Officials from the **Missouri River Regional Library** indicated there would be no fiscal impact

ASSUMPTION (continued)

to their library district. They already have a community policy in place that deals with the issue of restricting minors from gaining access to pornographic material.

Officials from the **Secretary of State's Office (SOS)** state Section 181.020(4), RSMo, directs the Missouri State Library to "furnish information and counsel as to the best means of establishing and maintaining libraries, selection of materials, cataloging, and other details of library management." To that end, the State Library employs staff within the Library Development Division to carry out this function through one on one consultation and training sessions. It is estimated that questions from public library directors, trustees, and those maintaining the software on library computers would require the services of the equivalent of a .5 FTE (\$18,366) Library Consultant.

SOS officials state it would not be possible to project a total cost of public libraries to install filtering software. Costs for filtering software vary widely by vendor and type, number of computer stations, and whether the software is installed on each "client" computer workstation or on a central server. The web pages of a sampling of filtering software vendors indicate approximate annual costs in the following ranges: \$150 for a site with 5 computers; \$500 to \$800 for 25 computers; and up to \$2,500 or more for a site with 125 computers. Several large library systems with many branches would have 100 or more computer stations requiring filtering software. Libraries choosing to install the filtering software on a server could also need to purchase suitable equipment for the installation. SOS officials also assume public libraries could have additional staff costs due to the legislation. Staff time required for installation, maintenance, and monitoring of filtering software could be significant.

Oversight assumes that many library districts and school libraries already have filtering devices in place and that many libraries have already implemented community policies that are an option in the proposed legislation.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the proposal would result in no direct fiscal impact to DESE. At the local school district level in the year 1999, DESE assumed the following:

- 1) 140,286 computers in Missouri school districts with internet connectivity.
- 2) 42% of districts report using filtering software on 85% of their computers.
- 3) The distribution of these computers across districts is not known.
- 4) Filtering software ranges in cost from \$0 to \$25. Additionally, software prices and capabilities vary according to the target age level.

Given this information, DESE believes the cost of this legislation would be significant, i.e., in excess of \$100,000; however, DESE does not feel there is enough information available to

ASSUMPTION (continued)

construct a specific estimate.

Section 566.151 - Crime of Enticement of a Child

For the purpose of this proposed legislation, officials from the **Office of the State Public Defender** assume that existing staff could provide representation for those new cases arising where indigent persons were charged with enticing a child under 17 years of age.

Currently, officials from the **Department of Corrections (DOC)** cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

Supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Cost - Department of Corrections</u>			
Incarceration/Probation Expenses	(Unknown-less than \$100,000)	(Unknown-less than \$100,000)	(Unknown-less than \$100,000)
<u>Cost-Secretary of State's Office</u>			
Personal Service	(\$15,888)	(\$19,296)	(\$19,778)
Fringe Benefits	(\$5,649)	(\$6,948)	(\$7,122)
Expense and Equipment	(\$2,793)	(\$300)	(\$300)
Total <u>Cost</u> - SOS	(\$24,130)	(\$26,544)	(\$27,200)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$24,130 to less than \$124,130)</u>	<u>(\$26,544 to less than \$124,130)</u>	<u>(\$27,200 to less than \$127,200)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
SCHOOL DISTRICTS			
<u>Cost-School Districts</u>			
Internet Access Filtering	(Unknown)	(Unknown)	(Unknown)
PUBLIC LIBRARIES			
<u>Cost-Public Libraries</u>			
Internet Access Filtering	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS*	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>
*Estimated to exceed \$100,000 annually			

FISCAL IMPACT - Small Business

Small businesses that sell filtering software to schools and libraries could be affected by this proposed legislation.

DESCRIPTION

SECTIONS 43.653 through 43.659

This portion of the proposal authorizes the Missouri State Highway Patrol to create, direct, control, and supervise the Missouri Regional Computer Forensics Laboratory (RCFL). The Missouri State Highway Patrol will bring together local, state and federal resources to research and combat computer crimes.

SECTIONS 182.825 and 182.827

This portion of the proposed legislation requires elementary and secondary public schools that provide a public access computer to either use filtering software, or to purchase Internet service through a provider that filters material that can be accessed in order to limit access to material that is pornographic for minors. The Department of Elementary and Secondary Education shall establish rules and regulations for the enforcement of these provisions.

A public library that provides a public access computer would be required to do one or both of the following:

- 1) Use filtering software or purchase Internet connectivity from an Internet service

DESCRIPTION (continued)

provide that provides filter services to limit access to material that is pornographic for minors.

- 2) Develop and implement by January 1, 2003, policies that are consistent with community standard and that establish measures to restrict minors from gaining computer access to material that is pornographic for minors. The Secretary of State would be required to establish rules and regulations for the enforcement of these policies.

A public school or public school board member, officer or employee, including library personnel who complies with the provisions of the proposal shall not be liable if a minor gains access to pornographic materials through the use of a public access computer that is owned or controlled by the public school or public library.

SECTION 566.151

This section creates the crime of enticement of a child. A person at least 21 years of age or older commits the crime of enticement of a child if that person persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the Internet or any electronic communication, any person who is less than fifteen years of age for the purpose of engaging in sexual conduct with a child.

Attempting to entice a child is a class D felony. Enticing a child is a class C felony, unless the person has previously pled or been found guilty of enticement of a child, first or second degree endangering the welfare of a child, abuse of a child, or a sexual offense, in which case it is a class B felony.

This legislation is not federally mandated, would not duplicate any other program (although many libraries and school districts already have policies in place to ensure minors do not access certain materials and most search engines offer on-site filtering) and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Office of Secretary of State
Administrative Rules Division
Missouri State Library
Office of Attorney General
Office of State Courts Administrator
Missouri River Regional Library
Department of Public Safety
Missouri State Highway Patrol
Office of Administration
Office of Information Technology
Division of Information Services

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A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large, prominent "M" and "W".

Mickey Wilson, CPA
Acting Director
May 14, 2002