

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4405-03
Bill No.: Perfected SS for SB 612
Subject: Crimes and Punishment; Immigration
Type: Original
Date: April 19, 2016

Bill Summary: This proposal modifies the law relating to the offense of illegal reentry.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$5,113)	(\$12,515)	(\$32,873)
Total Estimated Net Effect on General Revenue	(\$5,113)	(\$12,515)	(\$32,873)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

In response to a previous version of the proposal, officials from the **Office of Prosecution Services (OPS)** assumed the proposal would not have a measurable fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs which are difficult to determine.

Officials at the **Office of State Public Defender (SPD)** stated they could not assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of illegal reentry, a new Class B felony.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Office of the State Courts Administrator** and the **Department of Public Safety - Missouri Highway Patrol** each assumed the proposal would not fiscally impact their respective agencies.

Senate Amendment 1:

Due to time constraints, **Oversight** will assume that Senate Substitute Amendment 1 to Senate Amendment 1 will not change the fiscal impact statements from the agencies above.

Officials from the **Department of Corrections (DOC)** state this amendment adds language that would exempt aliens permitted to enter the United States under federal law and creates the offense of illegal reentry if a person who has been deported under the provisions of 8 U.S.C. Section 1326 returns to the state of Missouri. The offense is a class C felony. The enforcement of immigration laws is a federal responsibility and US law may take precedence over a state statute. The department has no information on the number of deported persons who have returned to Missouri without valid immigration documents.

The department estimates that one person per year will return and will be sentenced to prison. The class C felony is a new felony class in the revised criminal code that will become effective in January 2017. The Class C felony has an authorized sentence range from three to seven years.

ASSUMPTION (continued)

There is no historical data for the new class C felony and the department estimates that sentences for the new class C felony will, on average, be 80% of class B sentences. Class B sentences have a sentence range from five to fifteen years.

The department estimates that the average sentence for a nonviolent Class C offense will be 6 years and the expected time served is 50% of the sentence, or 3 years. The offense is parole eligible and will serve 3 years on parole, unless the offender is detained by the US Citizenship and Immigration Services.

The FY15 average cost of supervision is \$6.04 per offender per day or an annual cost of \$2,205 per offender. The DOC cost of incarceration is \$16.809 per day or an annual cost of \$6,135 per offender.

In summary, DOC assumes cost of \$5,113 in FY 2017 (one offender in prison), \$12,515 in FY 2018 (2 offenders in prison), and \$19,149 in FY 2019 (three offenders in prison). Long term forecasts from DOC project 3.5 persons in prison with 3.5 persons on probation/parole.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
Costs - DOC - incarceration and/or supervision of offenders of illegal reentry	<u>(\$5,113)</u>	<u>(\$12,515)</u>	<u>(\$32,873)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$5,113)</u>	<u>(\$12,515)</u>	<u>(\$32,873)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</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 creates the crime of illegal reentry. An illegal alien commits the crime of illegal reentry if he or she has been removed from the United States under federal law and thereafter:

1. Enters this state and commits a misdemeanor offense of assault or domestic assault or any felony offense; or
2. Commits an offense in any other state that would be considered a misdemeanor offense of assault or domestic assault or a felony offense, and thereafter enters this state.

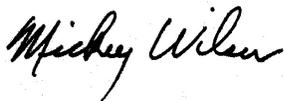
Illegal reentry is punishable as a Class C felony.

Any person in charge of a facility in which an illegal alien is detained upon arrest for the offense of illegal reentry shall transfer custody of such illegal alien to the United States Immigration and Customs Enforcement as soon as practicable.

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
Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Office of the State Courts Administrator



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Director
April 19, 2016

Ross Strobe
Assistant Director
April 19, 2016