

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4223-14
Bill No.: Truly Agreed to and Finally Passed SS for SCS for HCS for HB 1888
Subject: Law Enforcement Officers and Agencies; Pawnbrokers; Real and Personal Property; Crimes and Punishment; Evidence; Criminal Procedure
Type: Original
Date: May 29, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Office of Prosecution Services	More than \$100,000	More than \$100,000	More than \$100,000
Total Estimated Net Effect on <u>All</u> State Funds	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

FISCAL ANALYSIS

ASSUMPTION

In response to almost identical legislation (fiscal note 2894-03) the following agencies submitted the following statements:

Officials from the **Department of Public Safety – Missouri Highway Patrol** and the **Boone County Sheriff's Department** assume the proposed legislation would have no fiscal impact on their agency.

In response to a similar proposal from the current session (SB 662), officials from the **Callaway County Sheriff's Department** assumed the proposed legislation would save the department time in returning property to its lawful owner. However, the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of State Public Defender** assume existing staff could provide representation for those stealing cases arising where indigent persons were charged with escalated felonies due to the amount of dollars involved and for those cases arising where indigent persons were charged with illegal access to the pawnbroker database, a class C felony. The State Public Defender System further assumes, although the possible penalties for several crimes involving theft of items worth less than \$500 will be reduced, existing staff will continue to provide representation where indigent persons were charged. In reality, the workload on these particular felony reduced to misdemeanor cases would be less, but then the number of these cases is very minimal when compared to the total State Public Defender caseload. Last Fiscal Year, the State Public Defender System provided representation in 4,856 stealing cases, 15 stealing animals cases, 863 receiving stolen property cases, and 2,202 forgery cases. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

Officials from the **Office of State Courts Administrator** would not anticipate a significant impact on the workload of the judiciary as a result of the proposed legislation.

Officials from the **Office of Prosecution Services** assume the cost of the proposed legislation can be absorbed by prosecutors.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assumes the proposed legislation would have the following fiscal impact on their department:

Internet Access of Pawnshop Information to Law Enforcement Officers Component

This bill requires Internet access of pawnshop information to law enforcement officials. Penalty provisions, the component of the bill to potential fiscal impact for the DOC, is for a class C felony.

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

If additional persons are sentenced to the custody of the DOC due to these provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY01 average of \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender).

At this time, the DOC is unable to determine the number of additional inmate beds that may be required as a consequence of passage of this section of the proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, 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.

Revision of Theft Crime Statutes to Reflect a Felony Limit of \$500:

DOC officials state that they cannot predict the impact that may result from the raising and lowering of these stealing value thresholds on the number of offenders sentenced to incarceration or to a period of probation as these dollar values are not reflected in DOC's data base.

ASSUMPTION (continued)

The number of commitments depends on the utilization by Prosecutors and the actual sentences imposed by the Courts. It is assumed the resulting commitments due to changing these limits would offset each other, therefore, the fiscal impact for the DOC would be \$0.

Oversight assumes that Section 570.120 provides that Prosecutors collect in addition to handling cost, and additional \$1.00 fee per check and would be deposited in the Mo. Office of Prosecution Services Fund. Oversight assumes income to the fund would exceed \$100,000 annually.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Cost</u> to DOC from incarceration/probation costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
OFFICE OF PROSECUTION SERVICES FUND			
<u>Income</u> to Prosecution Services Fund from \$1.00 fee collected by Prosecutors	<u>More than \$100,000</u>	<u>More than \$100,000</u>	<u>More than \$100,000</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact on pawnbroker businesses in the state.

DESCRIPTION

BLG:LR:OD (12/01)

This act provides that itinerant vendors and peddlers shall provide upon request by law enforcement officials proof of purchase of any unused property, and forging a receipt shall be prosecuted pursuant to Section 570.090, RSMo. "New and unused property" is defined as tangible personal property that has never been used since its production or manufacture and is in its original unopened package. The act also adds altering a receipt, price tag or price code with the intent to cheat and defraud a retailer to the list of stealing crimes, and provides for a reasonable service charge on returned checks.

This act authorizes pawnshops to report certain information about pawnshop transactions to appropriate law enforcement authorities. Pawnshop owners may accomplish the necessary reporting by electronically transmitting the required information to a database. Any reporting pawnshop is required to submit transaction information to the database within one business day of the transaction. Such reporting pawnshop must make paper copies of transactions available to law enforcement, upon request. The act authorizes the creation of a database by a third party engaged in the business of operating databases. Law enforcement may then access the database in their investigation of alleged property crimes. Any person who fraudulently accesses the database shall be guilty of a Class C felony. Municipalities within St. Louis County and St. Louis City may regulate the number of pawnshop licensees.

This act provides that a pawnbroker shall require from those selling property proof of identification. If a seller or pledger fails to provide proof of identification, the pawnbroker shall hold the property for thirty days and can then transfer the property, provided the seller submitted a signed statement attesting he or she is the legal owner and when and from whom the property was acquired. A claimant whose property was misappropriated may demand return of the property and must provide written demand for its return, a copy of the police stolen property report containing a particularized description or applicable serial number and an affidavit wherein claimant asserts legal ownership, describes the property, agrees to cooperate with law enforcement in any prosecution relating to the theft and states the property was taken without claimant's consent. If such demand is made, the pawnbroker shall return the property to claimant, in the presence of a police officer, within seven days. However, if the pawnbroker has reason to believe any of the statements in the affidavit are false, the pawnbroker need not return the property and claimant

DESCRIPTION (continued)

BLG:LR:OD (12/01)

may seek relief in court. The non-prevailing party shall be responsible for court costs and the prevailing party's attorney fees. Conversely, if the pawnbroker returns the property but later discovers information contained in the affidavit was false, or that claimant did not assist police in the prosecution of the theft, the pawnbroker may file suit for the value of the property and the non-prevailing party shall be responsible for court costs and the prevailing party's attorney fees.

This act lowers the felony stealing limit from \$750 to \$500, and raises the felony limit for numerous other crimes involving theft from \$150 to \$500. The other criminal statutes affected are: making a false statement to receive health care payment; sale of any species of wildlife; tampering with computer data; tampering with computer equipment; tampering with computer users; determination of value; receiving stolen property; alternation or removal of item numbers with intent to deprive rightful owner; passing bad checks; fraudulently stopping payment on an instrument; fraudulent use of a credit device; library theft; theft of cable television service; failure to return rented personal property; unlawful receipt of food stamps or ATP cards; unlawful conversion of food stamps or ATP cards; unlawful transfer of food stamps or ATP cards; and perjury, committed when obtaining public assistance.

Offenses in which the value of property or services is an element (stealing) is a Class C felony if the value is \$500 to \$25,000. If the value is \$25,000 or more, the offense is a Class B felony.

A person who has pleaded guilty or been found guilty on two separate occasions of a stealing-related offense within ten years of the present offense, and where the person received and served a sentence of ten days or more on such previous offense, is guilty of a Class C felony if he pleads guilty or is found guilty on the present offense.

In addition to handling costs collected from issuers of bad checks, the prosecuting attorney or circuit attorney shall collect an additional \$1 per check for deposit into the Missouri Office of Prosecution Services Fund.

This act contains a severability clause.

SOURCES OF INFORMATION

Office of State Courts Administrator

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Office of Attorney General
Department of Public Safety
– Missouri State Highway Patrol
Office of State Public Defender
Office of Prosecution Services
Department of Corrections



Mickey Wilson, CPA

Acting Director

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