

COMMITTEE ON LEGISLATIVE RESEARCH
 OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4300-05
Bill No.: Perfected HCS for HB 1777
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies; Public Health
Type: Original
Date: May 1, 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)
Road	(\$500)	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(\$500) to Less than (\$100,000)	Less than (\$100,000)	Less than (\$100,000)

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 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations, Department of Social Services, Office of Administration, Coordinating Board of Higher Education, Department of Public Safety – Office of Adjutant General, – Capitol Police, – Missouri State Water Patrol, Department of Insurance, – Division of Fire Safety, – Missouri Veterans Commission, – State Emergency Management Agency, – Division of Liquor Control, Central Missouri State University, Missouri House of Representatives, Department of Conservation, Department of Health and Senior Services, State Auditor’s Office,** and the **Department of Natural Resources** assume the proposed legislation would have no fiscal impact on their agencies.

In response to a previous version of this proposal, officials from the **Office of Prosecution Services** assumed prosecutors could absorb the costs of the proposed legislation within existing resources.

Officials from the **Office of State Courts Administrator** assume while there may be some additional cases, there should not be a significant impact on the workload of the judiciary.

Officials from the **Office of Secretary of State (SOS)** assume the proposal implements provisions related to terrorism. The State Highways and Transportation Commission will promulgate rules to implement the provisions of this act. These rules will be published in the *Missouri Register* and the *Code of State Regulations*. Based on experience with other divisions, the rules, regulations, and forms issued by the State Highways and Transportation Commission could require as many as 24 pages in the *Code of State Regulations* and half again as many pages in the *Missouri Register*, as 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 and the estimated cost of a page in the *Code of State Regulations* is \$27. Based on these costs, the estimated cost of the proposal is \$1,476 in FY 03 and unknown in subsequent years. The actual cost could be more or less than the numbers given. 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 SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

ASSUMPTION (continued)

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume their Commercial Vehicle Enforcement Division would require additional training for personnel, but the MHP expects those training expenses to be minimal. Therefore, the MHP anticipates no fiscal impact.

In response to a previous version of this proposal, officials from the **Office of State Public Defender** assumed existing staff could provide representation for these cases arising where indigent persons were charged with transporting hazardous materials in and through a tunnel (a class B misdemeanor), criminal profiteering, criminal water contamination, the revised crime of making a terrorist threat, or the crime of supporting terrorism. The State Public Defender further assumed that existing staff could provide representation in those cases where indigent persons were charged with agroterrorism, operating on closed waterways, or stealing ammonium nitrate. Last FY, the State Public Defender System did not provide representation in any making a terroristic threat cases. However, 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 **Department of Transportation (MoDOT)** assume the legislation prohibits the transport of hazardous loads in tunnels. The Manual on Uniform Traffic Control Devices (MUTCD) has a standard sign to be used when hazardous cargo is prohibited. The sign would be 2 feet by 2 feet in size and mounted on a wood post. The estimated cost to install one sign would be \$250. Two signs would be installed, one on each side of the tunnel, for a total cost of \$500. Signing for other routes where hazardous cargo is prohibited cannot be estimated since there are no routes currently designated.

Officials from the **Department of Corrections (DOC)** assume the proposal creates new misdemeanors and felonies and enhances existing crimes relating to terrorism. The DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this 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 the 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).

ASSUMPTION (continued)

The DOC is unable to determine the number of additional inmate beds that may be required as a consequence of passage of this 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. The potential fiscal impact for the DOC is of an unknown amount.

Oversight assumes the cost of the proposal to the Department of Corrections would be less than \$100,000 in any given year. Although the proposal creates or enhances several crimes, the scope of these crimes is narrow. Therefore, Oversight assumes that the number of incarcerations due to the new or enhanced crimes would be small.

Officials from the **Department of Education (DESE)** assume there is no state cost to the foundation formula associated with this bill. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the Department of Revenue to distribute to schools. Any increase in this money distributed to schools becomes a deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula with a proration factor of 1.00.

Oversight assumes the scope of the crimes created and enhanced in the proposal is narrow. Therefore, Oversight shows no impact to the local school districts.

HA5 – No-Call List

Officials from the **Office of Attorney General (AGO)** assume the costs of the proposal are unknown but would likely be significant because Amendment No. 5 to the bill appears to authorize any residential subscribers to add fax numbers and 3-mail addresses to the no-call list. Current law only authorizes phone numbers to be placed on the no-call list. The AGO assumes that fax number and e-mail address sign-ups will increase the cost of administering the list.

ASSUMPTION (continued)

Oversight assumes the AGO could absorb the cost of the proposed legislation within existing resources. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriation process.

HA6 – Joint Commission on Terrorism, Bioterrorism, and Homeland Security

Officials from the **University of Missouri** assume Amendment 6 will cost the University approximately \$10,000 per year. This cost will be incurred to report information to the Joint Committee on Terrorism, Bioterrorism, and Homeland Security.

Oversight assumes the University of Missouri could absorb the cost of reporting information to the Joint Committee within existing resources.

Officials from the **Department of Mental Health (DMH)** assume the amendment would require a partial FTE to respond to the information and other types of requests from the joint committee. However, the duties for such a position could be absorbed by the DMH. Therefore, there will be no fiscal impact to the DMH.

<u>FISCAL IMPACT - State Government</u>	FY 2003	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Costs</u> – Department of Corrections Incarceration/Probation costs	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>
ROAD FUND			
<u>Costs</u> – Department of Transportation Hazardous Cargo Sign	<u>(\$500)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON ROAD FUND	<u>(\$500)</u>	<u>\$0</u>	<u>\$0</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2003	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposal could have a fiscal impact on small businesses.

DESCRIPTION

The proposed legislation would make it unlawful to use unfair leverage in the sale of essential consumer merchandise during a consumer market disruption due to weather, natural disaster, civil disorder, or other specified emergencies. Evidence of unfair leverage would include a showing of a gross disparity between the price at which the seller sold the essential consumer merchandise and the seller's price for similar merchandise before the market disruption or a gross disparity between the price at which the seller sold the essential consumer merchandise and the price at which comparable merchandise was available in the area at the same time. A seller could rebut the allegation of exercising unfair leverage by a showing that the seller did not exercise unfair leverage. Persons who exercise unfair leverage would be liable for restitution to consumers, a civil penalty to the State of Missouri, and may be subject to civil action commenced by the Attorney General (§§407.760 & 407.762).

The proposal would prohibit the transport of hazardous materials through highway tunnels. Violations would be a class B misdemeanor for the first offense and a class A misdemeanor for the second or subsequent offense (§304.370). Failure to operate a vehicle transporting hazardous unless the vehicle is operated in accordance with U.S. Department of Transportation safety and hazardous materials regulations would be a class A misdemeanor (§307.177).

The Missouri State Water Patrol would be permitted to close any waters in the state to navigation or use in the event of a disaster (§306.124).

The proposal would allow permit Attorney General to investigate the unlawful use of funds by charitable organizations (§407.472).

The proposal would create the crime of criminal water contamination , a class B felony (§569.072). Stealing ammonium nitrate would be a class C felony (§570.030). It would be a class C felony to knowingly possess, manufacture, transport, repair, or sell an explosive, incendiary, or poison substance or material with the purpose to possess, manufacture, or sell an explosive weapon (§571.020).

DESCRIPTION (continued)

The proposal would revise the current crime of making a terrorist threat, a class C felony unless it is done with criminal negligence with regard to the risk of causing the evacuation of a building, place of assembly, or facility of transportation, in which case it would be a class A misdemeanor (§574.115).

The proposal would create the crime of supporting terrorism, a class C felony (§576.080). Agroterrorism would be expanded to include spreading disease among crops and poultry (§578.008).

This proposal exempts security plans for public buildings from the state's Sunshine Law (§610.021 – HA1).

The proposal prohibits transmission of an electronic mail message from a computer located in Missouri or to an electronic mail addresses that the sender knows is held by a Missouri resident that uses a third party's Internet domain name without permission, otherwise misrepresents or obscures identifying information regarding the point of origin or transmission path, or contains false or misleading information in the subject line (HA2).

The proposed legislation would add faxes and e-mails to the definition of "telephone solicitation" in the No-Call Law. The proposal also would revise one of the exceptions to the no-call list by allowing calls to make appointments only in response to a contact that was initiated by a consumer (§407.1095 – HA 5).

This proposal would establish a legislative Joint Committee on Terrorism, Bioterrorism, and Homeland Security. The Committee would make a study and analysis of state government efforts to combat terrorism and bioterrorism and analyze state government efforts to provide homeland security; create a reporting system to provide information about each state agency's efforts in the areas at least every other year; use the analysis to determine if state laws need to be changed; and make any recommendations about providing adequate terrorism, bioterrorism and homeland security for the citizens of Missouri to the general assembly. The Committee could employ such personnel as it deems necessary to perform its duties under terms of the proposal. The provisions of this proposal would expire 31 December 2007 (§38.050 – HA6).

This proposal contains an emergency clause.

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

SOURCES OF INFORMATION

Department of Transportation
Department of Natural Resources
Department of Labor and Industrial Relations
Department of Social Services
Office of Administration
Coordinating Board of Higher Education

BLG:LR:OD (12/01)

Department of Public Safety

- Office of Adjutant General
- Capitol Police
- Missouri State Water Patrol
- Division of Fire Safety
- Missouri Veterans Commission
- State Emergency Management Agency
- Missouri State Highway Patrol
- Division of Liquor Control

Department of Insurance

Department of Corrections

Office of Secretary of State

Central Missouri State University

Missouri House of Representatives

Department of Conservation

Department of Education

Department of Health and Senior Services

Office of State Courts Administrator

Office of Attorney General

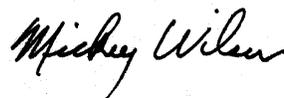
University of Missouri

State Auditor's Office

Department of Mental Health

Office of Prosecution Services

Office of State Public Defender



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