

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2879-01
Bill No.: SB 913
Subject: Crimes and Punishment; Criminal Procedure; Victims of Crime
Type: Original
Date: January 30, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of State Courts Administrator** assume while this is a relatively new crime, evidence indicates that it is growing rapidly nationwide. Any significant increase in the workload of the courts will be reflected in future budget requests.

Officials from the **Office of Prosecution Services** assume the proposal may impact prosecutor caseloads as it creates new crimes. The impact on a given office should be absorbed. The cumulative impact of the passage of numerous bills creating new crimes could have a substantial effect on prosecutors.

ASSUMPTION (continued)

Officials from the **Office of State Public Defender (SPD)** assume the proposed legislation will increase the penalty for identity theft and create the crime of trafficking in stolen identities. New crimes create new cases for the SPD. Increasing penalties of existing crimes increases the difficulty of existing cases handled by the SPD. The exact number of cases affected is too uncertain to provide a definitive dollar amount of fiscal impact. Nevertheless, there will be some impact. Since the amount of impact is so uncertain, the SPD is assuming existing staff will be able to provide representation in these cases initially. However, once the true fiscal impact is determined the SPD will reassess the impact of this legislation. Passage of more than one bill increasing existing penalties or creating new crimes will require increased appropriations for the SPD.

Officials from the **Department of Corrections (DOC)** assume this proposal enhances crime criteria relating to identity crimes and trafficking in stolen identities. Penalty provisions, the component of the bill to have potential fiscal impact for DOC, are enhanced to multi-tiered levels from a class A misdemeanor through a class A felony.

Currently, the DOC cannot predict the number of new commitments which may result from the enhancement 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. The probability exists that offenders could already be criminally charged under the existing statute, but this new language may make it easier to prosecute and/or convict. Since 2000, there have been 5 offenders in the DOC with identity theft charges. This translates into an annual rate of 1.67 individuals per year. The average time served for a class C felony is 15 months. From indications of potential future trends, identity theft is a growing area of crime.

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 (FY03 average of \$38.10 per inmate per day, or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. DOC assumes the impact would be less than \$100,000 per year for the DOC for the three years of this fiscal note period, but the long-range impact is unknown.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
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	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<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.

DESCRIPTION

The proposed legislation would create a list of various forms of identification such as social security numbers, drivers license numbers, and other information, that are to be considered the subject of identity theft.

Under this proposal, it would be a class A misdemeanor if a person commits identity theft involving no more than \$500. Subsequent offenses involving less than \$500 would be class D felonies. It would be a class D felony if the value of the identity theft exceeds \$500 but no more than \$1,000. It would be a class C felony if the value of the identity theft exceeds \$1,000 but no more than \$10,000. It would be a class B felony if the value of the identity theft exceeds \$10,000 but no more than \$100,000. It would be a class A felony if the value of the identity theft exceeds \$100,000.

The proposal would allow any person who commits identity theft to be liable to the victim for up to \$5,000, in addition to criminal penalties. The victim could also bring a civil action to enjoin future acts of identity theft by the individual.

DESCRIPTION (continued)

The proposal would allow a deceased person's estate to recover damages for identity theft to which the decedent was a victim.

The proposal would not be applicable in certain situations when a person obtains the identity of another. Such situations would include obtaining an identity to buy alcoholic beverages, receiving credit information in a commercial transaction, lawfully exercising a security interest by a creditor, and complying with a court order or other decree.

The proposal would define the offense of trafficking stolen identities as manufacturing, selling, transferring, purchasing, or possessing identification documents for the purposes of identity theft. Under this proposal, trafficking of stolen identification documents would be a class B felony. Possession of five or more identification documents of one person, or identification documents of more than five people, is evidence that the person intends to commit identity theft. Possession of one's own identification, his or her spouse's identification, or that of a consenting person is not an offense.

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

Office of State Courts Administrator
Department of Corrections
Department of Public Safety
– Missouri State Highway Patrol
Office of Prosecution Services
Office of State Public Defender



Mickey Wilson, CPA
Director

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