

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2137-01
Bill No.: HB 1036
Subject: Economic Development Dept.; Law Enforcement Officers and Agencies;
Licenses - Professional
Type: Original
Date: March 7, 2007

Bill Summary: Enacts licensing requirements for private investigators.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(\$40,711)	(\$50,320)	(\$51,829)
Total Estimated Net Effect on General Revenue Fund	(\$40,711)	(\$50,320)	(\$51,829)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Private Investigator Examiners	\$0	\$178,907	(\$118,908)
PR Fees	(\$110,763)	\$0	\$0
Criminal Records	\$0	\$8,400	\$256
Total Estimated Net Effect on <u>Other</u> State Funds	(\$110,763)	\$187,307	(\$118,652)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	1	1	1
Private Investigator Examiners	1.5	1.5	1.5
Total Estimated Net Effect on FTE	2.5	2.5	2.5

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Missouri Senate, Office of the Governor, Department of Public Safety (DPS) - Director's Office, and DPS - Division of Fire Safety** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if other similar bills also pass, there are more cases, or more complex cases, there could be a fiscal impact.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Corrections (DOC)** state the 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 commitment 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 through either incarceration (FY 06 average of \$39.43 per inmate per day or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY 06 average of \$2.52 per offender, per day or an annual cost of \$920 per offender per year).

DOC assumes the narrow scope of the crime will not encompass a large number of offenders. The low felony status of the crime enhances the possibility of plea-bargaining or the imposition of a probation sentence. The probability also exists that offenders would be charged with a similar but more serious offence of that sentences may run concurrent to one another.

Supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services (OPS)** state any increase in the number of cases referred for criminal prosecution will have an additional fiscal impact on County Prosecutors. However, the OPS is not able to establish an estimate of the number of additional criminal cases that would be referred to the County Prosecutors for charges because of this proposed legislation. It is therefore, not possible determine if the proposal would have a significant direct fiscal impact on county prosecutors of the OPS.

Officials from the **Office of Attorney General (AGO)** assume that because this proposal creates a new licensing board that would license both private investigators and trainers, the AGO will provide legal representation in helping the board promulgate rules, render legal opinions, and take licensing actions against licensees when required. While the AGO assumes that these tasks would not require a full time attorney, this proposal would likely require a significant time commitment in providing legal advice to the board. Also, while the AGO assumes that costs can be absorbed, the AGO would anticipate that, if this proposal is combined with another proposal creating another new board with similar responsibilities, the AGO would require one Assistant Attorney General II to provide the necessary legal support for both boards.

The AGO further assumes that any costs incurred under this proposal would be paid from the Board of Private Investigators Fund rather than from General Revenue.

Officials from the **Office of State Public Defender (SPD)** assume the new crime will create new cases for the SPD. The exact number of cases affected is too uncertain to provide a definitive dollar amount of fiscal impact. Nevertheless, there will some impact.

Since the amount of impact is so uncertain, the SPD is assuming existing staff will probably be able to provide representation in these cases initially. However, once the true fiscal impact is determined, the SPD will reassess the impact of the legislation. Passage of more than one bill increasing existing penalties or creating new crimes would require increased appropriations for the SPD.

Officials from the **Office of State Treasurer (STO)** state the STO only ensures disbursements are made from a lawful appropriation and don't exceed the amount of the appropriation. If the wording of the proposal is not changed, the STO will need one (1) FTE Accounting Specialist I (\$39,324 annually) plus fringe benefits to monitor these disbursements.

Oversight has, for fiscal note purposes only, changed the starting salary for Accounting Specialist I to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

ASSUMPTION (continued)

Officials from the **Department of Insurance, Financial and Professional Regulation (DIFP)** state based on a 2005 estimate from a search of Occupational Projections by the Department of Economic Development, Occupational Employment Statistics (OES) and including a 3% growth rate, there are 525 individuals in the state of Missouri that will be required to obtain private investigator licenses.

The DIFP estimates an initial biennial licensing fee of \$570 per licensee that will begin being collected in FY 09. Initial licensing fees are estimated to be \$299,250. It is assumed that all fees collected would be deposited into a fund for the Board of Private Examiners Fund and that all expenses would be paid out of that fund. It is assumed no revenue will be generated by the Board of Private Investigator Examiners in FY 08. Therefore, expenses incurred by the board will be paid back to the PR Fees Fund by a lending board within the division, pursuant to section 620.106, RSMo. It is estimated payback of any outstanding loans would be made in FY 2011.

Expenses and equipment costs were based on information from boards with a like-sized licensee base. The proposed legislation will create the need for 1.5 FTE as follows: Principal Assistant (0.5 FTE) to serve as the senior executive officer of the agency (\$59,532 annual full-time salary), a Licensure Technician II (0.5 FTE) will be needed to provide technical support, process licensure applications and respond to inquiries regarding licensure law (\$23,916 annual full-time salary) and an Investigator II (0.5 FTE) to conduct investigations and inspections, serve notices and gather information as required by the board (\$33,888).

Officials from the **DPS - Missouri State Highway Patrol (MHP)** state the Department of Insurance, Financial and Professional Regulation advised the MHP that they expect approximately 500 fingerprint checks per year.

The total fees from record checks is estimated to be \$19,000 (\$38 per fingerprint check X 500 checks per year).

The state fingerprint processing fee is \$14; therefore, the anticipated revenue to the Criminal Records Fund is \$7,000 (500 checks X \$14).

The FBI fingerprint processing fee is \$24. However, \$2 is retained in the Criminal Records Fund as an administrative fee. Therefore, \$1,000 (\$2 X 500 checks) is retained in the Criminal Records Fund and \$11,000 (\$22 X 500 checks) is passed-through to the FBI, i.e. not retained in the Criminal Records Fund.

The MHP estimates this proposal will result in an additional \$8,000 (\$7,000 state processing fee + \$1,000 FBI administrative fee) to the Criminal Records Fund.

ASSUMPTION (continued)

Oversight assumes, based on the DIFP's response, that fingerprinting of applicants would not begin until FY 09. The DIFP estimates 525 applicants in FY 09 and anticipates a 3% growth rate (16 applicants would need to be fingerprinted in FY 10). Income to the Criminal Records Fund for FY 09 is estimated to be \$8,400 [525 applicants X (\$14 state fee + \$2 FBI fee)]; income for FY 10 is anticipated to be \$256 [16 applicants (\$14 state fee + \$2 FBI fee)].

This proposal will increase total state revenue.

FISCAL IMPACT - State Government

FY 2008
(10 Mo.)

FY 2009

FY 2010

HWC:LR:OD (12/02)

GENERAL REVENUE FUND

Costs - Office of State Treasurer

Personal service costs (1.0 FTE)	(\$28,026)	(\$34,641)	(\$35,680)
Fringe benefits	(\$12,685)	(\$15,679)	(\$16,149)
Total <u>Cost</u> - Office of State Treasurer	<u>(\$40,711)</u>	<u>(\$50,320)</u>	<u>(\$51,829)</u>
FTE Change - STO	1.0 FTE	1.0 FTE	1.0 FTE

**ESTIMATED NET EFFECT ON
 GENERAL REVENUE FUND**

(\$40,711) (\$50,320) (\$51,829)

Estimated Net FTE Change for General
 Revenue Fund

1.0 FTE 1.0 FTE 1.0 FTE

**PRIVATE INVESTIGATOR
 EXAMINERS FUND**

Transfer-In - DIFP

Transfer from PR Fees Fund	\$110,763	\$0	\$0
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Income - DIFP

Licensure Fees/Renewals	\$0	\$299,250	\$9,120
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Costs - DIFP

Personal service costs (1.5 FTE)	(\$50,236)	(\$61,944)	(\$66,650)
Fringe benefits	(\$22,737)	(\$28,036)	(\$30,166)
Equipment and expense	(\$33,706)	(\$25,315)	(\$26,013)
AGO and AHC costs	(\$4,084)	(\$5,048)	(\$5,199)
Total <u>Cost</u> - DIFP	<u>(\$110,763)</u>	<u>(\$120,343)</u>	<u>(\$128,028)</u>
FTE Change - DIFP	1.5 FTE	1.5 FTE	1.5 FTE

**ESTIMATED NET EFFECT ON
 PRIVATE INVESTIGATOR
 EXAMINERS FUND**

\$0 \$178,907 (\$118,908)

Estimated Net FTE Change for Private
 Investigator Examiners Fund

1.5 FTE 1.5 FTE 1.5 FTE

FISCAL IMPACT - State Government

FY 2008 FY 2009 FY 2010
 (10 Mo.)

PR FEES FUND

Transfer-Out - DIFP

Transfer to Private Investigator
 Examiners Fund

(\$110,763)	\$0	\$0
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**ESTIMATED NET EFFECT ON PR
 FEES FUND**

<u>(\$110,763)</u>	<u>\$0</u>	<u>\$0</u>
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CRIMINAL RECORDS FUND

Income - Missouri State Highway Patrol

Fingerprinting fees

<u>\$0</u>	<u>\$8,400</u>	<u>\$256</u>
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**ESTIMATED NET EFFECT ON
 CRIMINAL RECORDS FUND**

<u>\$0</u>	<u>\$8,400</u>	<u>\$256</u>
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FISCAL IMPACT - Local Government

FY 2008 (10 Mo.)	FY 2009	FY 2010
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**LOCAL GOVERNMENTS - COUNTY
 PROSECUTORS**

Costs - County Prosecutors

Increase in criminal prosecutions

<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
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**ESTIMATED NET EFFECT ON
 LOCAL GOVERNMENTS - COUNTY
 PROSECUTORS**

<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
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FISCAL IMPACT - Small Business

This proposal will impact small business private investigation agencies as persons will have to meet training standards, possess licenses, and be insured.

FISCAL DESCRIPTION

This proposal creates the "Board of Private Investigator Examiners" within the Division of Professional Registration in the Department of Insurance, Financial and Professional Regulation.

The Board will consist of five members appointed by the Governor with the advice and consent of the Senate. Board members will serve staggered terms of two years.

The Board of Private Investigator Examiners Fund is also created. The proposal makes it unlawful for persons to engage in the private investigator business unless licensed. Consumer reporting agencies, attorneys, collection agencies, and insurers are exempted from licensure. Application requirements are specified.

The Board shall ensure applicants complete a course of training conducted by a certified trainer; pass a written examination; and submit to an oral interview with the Board. Complete background checks will be conducted on all applicants. The proposal grandfathers current private investigators.

The Board shall set the fees for licensure. Licenses shall expire two years after issuance and provisions for renewal are provided. The Board is given rulemaking authority.

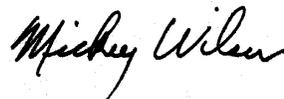
The Board shall certify qualified trainers of private investigators. Persons who knowingly falsify fingerprints or photographs required to be submitted is a Class D felony. Violation of other provisions is a Class A misdemeanor unless it is a second or subsequent violation in which case it is a Class D felony.

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

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Office of Attorney General
Office of Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Insurance, Financial and Professional Regulation
Department of Corrections
Department of Public Safety -
 Director's Office
 Division of Fire Safety
 Missouri State Highway Patrol
Office of the Governor
Office of Prosecution Services
Missouri Senate
Office of Secretary of State
Office of State Public Defender
Office of State Treasurer



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