

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1167-05
Bill No.: SCS for HCS for HB Nos. 600, 337 & 413
Subject: Crimes and Punishment; Energy; Law Enforcement Officers and Agencies
Type: Original
Date: May 10, 2011

Bill Summary: This proposal modifies provisions relating to public safety.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Water Patrol Fund	\$0	\$0	\$0
Highway Patrol's Motor Vehicle, Aircraft, and Watercraft Revolving	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

- 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 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 43.260 & 43.265 - Sale of watercraft, motors and trailers;

Officials from the **Office of the State Treasurer** and the **Office of Administration** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state that prior to this legislation, the sale and purchase of watercraft would have been handled within certain funds such as the Water Patrol Fund, with smaller amounts of money from the sale of old watercraft going in and larger amounts of money for the purchase of replacement watercraft going out. This legislation would bring the Motor Vehicle, Aircraft, and Watercraft Revolving Fund into the scenario, with the proceeds of the sale now going into the revolving fund, and a corresponding partial offset to the purchase price of the new watercraft now coming from the revolving fund. The net result of this legislation to either fund (WP or Revolving Fund) would be zero, as any increase/reduction in money coming into a fund would be offset by an equal increase/reduction in money being spent from that same fund. Therefore, the Highway Patrol anticipates no fiscal impact.

Sections 87.005 & 87.006 - Fire department retirements;

The **Joint Committee on Public Employee Retirement (JCPER)** has reviewed this proposal and has determined an actuarial study is not needed under the provisions of section 105.660, subdivision (10).

Officials from the **Firemen's Retirement System of St. Louis** stated there is no cost to the employer or the retirement system from this bill.

In response to a similar proposal from this year (SB 238), officials from the **Kansas City Firemen Retirement System** and **Local Government Employees Retirement System** each assumed there will be no fiscal impact to their respective agencies.

Section 304.820 - Texting;

Officials from the **Department of Revenue (DOR)** assume Section 304.820 now requires the DOR to assess points to a driver's record for a conviction violation of text messaging while driving offense created under these provisions regardless of age of the offender. This legislation removes the 21 and under age limitation which will result in an unknown increase in the number of convictions for driving while texting.

ASSUMPTION (continued)

The proposal would administratively impact the DOR's Driver License Bureau. DOR states there are no statistics available to determine how many additional convictions the DOR may be required to process; however, one FTE can process 320 convictions per day. The DOR assumes that a minimum of 1 FTE will be needed to process the additional convictions resulting from this violation. If the volume of convictions received for processing exceeds 320 per day, then additional FTE will be required and will be requested through the appropriation process.

There are no statistics available to determine the volume of phone calls that may be received; however, currently a Telephone Information Operator is required to handle 100 calls per day. The DOR assumes that a minimum of 1 FTE will be needed to answer the additional phone calls. If the calls received for texting while driving exceeds 100 calls per day, then additional FTE will be required and will be requested through the appropriation process.

The DOR is unable to determine how many convictions will be received for texting while driving and, therefore, is unable to determine the forms and postage costs for issuing the suspension/revocation notices.

DOR assumes the following costs:

One FTE Revenue Processing Tech (at \$25,380 per year) to process additional convictions for texting while driving and One FTE Telephone Information Operator (at \$25,380 per year) to answer telephone calls related to texting while driving. Postage and forms costs are unknown. DOR estimates the total cost to be approximately \$80,000 in FY 12, \$80,000 in FY 13, and \$81,000 in FY 14.

DOR assumes the proposal would also have a revenue impact of an unknown amount in the form of Reinstatement Fees Collected. Fees collected will be distributed, 75% highway fund, 15% cites, and 10% counties.

In response to a similar proposal from this year (SB 11), officials from **Kansas City** assumed the proposal would not fiscally impact their city.

In response to a similar proposal from this year (SB 11), officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** assume the proposal would not fiscally impact their agency. The MHP states they wrote 65 texting-while-driving tickets in 2010. Of those, nine were involved in accidents.

ASSUMPTION (continued)

Oversight received information that, as of January 5, 2011, the Department of Revenue (DOR) processed 56 convictions for drivers twenty-one years of age or younger text messaging while driving since the statute went into effect on August 28, 2009.

Oversight assumes, based on the information received from the Missouri State Highway Patrol and the Department of Revenue (DOR), that the number of convictions resulting from prohibiting all drivers, regardless of age, from text messaging while operating motor vehicles would not be excessive. Oversight assumes DOR could absorb any increase in work load resulting from the proposal within existing resources. If the DOR experiences an increase that would require additional funding, the DOR could request the funding through the appropriation process.

Oversight assumes any revenue impact would be minimal, and reflects no change to Total State Revenue as a result of the proposal.

Sections 565.081 - 565.083 - Crime of assault of a utility worker and Section 570.080 - Crime of receiving stolen property;

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Office of Prosecution Services** and the **Department of Public Safety - Highway Patrol** each assume the proposal would not have a fiscal impact on their respective agencies.

In response to similar legislation from this year, officials at the **Office of State Public Defender (SPD)** stated they could not assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the enhanced penalties for assault of a utility worker - being defined as a 'law enforcement officer'.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. 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 competent and effective representation in all its cases.

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

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the bill proposes to add utility workers to the list of persons who can be victims of the crimes of assault of a law enforcement officer (LEO) etc. in the first, second and third degrees. The existing penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class A felony.

Offenders charged with any of the crimes outlined in this proposal could already be charged and prosecuted pursuant to current statutes for assault.

Currently, 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 direct offender cost either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each 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.

Officials from the **Department of Transportation** assume the proposal would not create a fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Costs - Department of Corrections</u>			
For incarceration or probation for offenders of the crimes within the bill (Sections 565.081 - 565.083 & 570.080)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO GENERAL REVENUE	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2012 (10 Mo.)	FY 2013	FY 2014
--	---------------------	---------	---------

WATER PATROL FUND

<u>Loss</u> - proceeds from sale of watercraft, watercraft motors and trailers now deposited into the Highway Patrol's Motor Vehicle, Aircraft, and Watercraft Revolving Fund (Sections 43.260 - 43.265)	(Unknown)	(Unknown)	(Unknown)
--	-----------	-----------	-----------

<u>Savings</u> - Less money in the fund to be spent on watercraft, watercraft motors and trailers (Sections 43.260 - 43.265)	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
--	----------------	----------------	----------------

ESTIMATED NET EFFECT TO THE WATER PATROL FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
--	-------------------	-------------------	-------------------

HIGHWAY PATROL'S MOTOR VEHICLE, AIRCRAFT, AND WATERCRAFT REVOLVING FUND

<u>Income</u> - proceeds from sale of watercraft, watercraft motors and trailers which were previously deposited into the Water Patrol Fund (Sections 43.260 - 43.265)	Unknown	Unknown	Unknown
--	---------	---------	---------

<u>Costs</u> - of watercraft, watercraft motors and trailers that previously were purchased out of the Water Patrol Fund (Sections 43.260 - 43.265)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
---	------------------	------------------	------------------

ESTIMATED NET EFFECT TO THE HIGHWAY PATROL'S MOTOR VEHICLE, AIRCRAFT, AND WATERCRAFT REVOLVING FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
--	-------------------	-------------------	-------------------

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<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

STATE HIGHWAY PATROL (Sections 43.260, 43.265, and 306.130, RSMo) - Currently, the State Highway Patrol is authorized to sell surplus patrol motor vehicles. The substitute allows the patrol to also sell surplus watercraft, watercraft motors, and trailers. The Highway Patrol's Motor Vehicle and Aircraft Revolving Fund is renamed the Highway Patrol's Motor Vehicle, Aircraft, and Watercraft Revolving Fund and allows it to be used to purchase watercraft, watercraft motors, and trailers as well as vehicles.

TEXT MESSAGING WHILE DRIVING (Section 304.820) - Currently, an individual 21 years of age or younger is prohibited from sending, reading, or writing a text message or electronic message from a hand-held electronic wireless communications device while operating a moving motor vehicle on any highway in this state. The substitute prohibits anyone, regardless of age, from these activities unless the device being used is equipped with technology allowing for voice-recognition hands-free texting and is being used in that manner.

ASSAULT OF A UTILITY WORKER (Sections 565.081 - 565.083) - The substitute expands the crime of assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction or work zone, or probation and parole officer in the first, second, and third degrees to include a utility worker and repeals a duplicate provision currently in statute regarding this crime in the second degree.

RECEIVING STOLEN PROPERTY (Section 570.080) - The substitute revises the punishment for the crime of receiving stolen property, a class A misdemeanor, unless the value of the property or services stolen is \$500 or more but less than \$25,000 or a person physically takes the property from the victim or the property consists of certain specified items, the person will be guilty of a class C felony. The receipt of any item of property or services that exceeds \$500 may

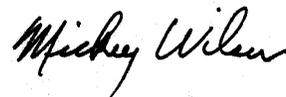
FISCAL DESCRIPTION (continued)

be considered a separate felony and may be charged in separate counts. Any person with a prior conviction for receiving stolen livestock or captive wildlife who violates those same provisions a subsequent time when the value of the animal stolen exceeds \$3,000 will be guilty of a class B felony and will be required to serve at least 80% of any sentence imposed before he or she is eligible for probation, parole, conditional release, or other early release by the Department of Corrections. Anyone committing an offense in which the value of the property or services is an element will be guilty of a class B felony if the value equals or exceeds \$25,000.

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
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections
Department of Revenue
Department of Transportation
State Treasurer's Office
Office of Administration
Joint Committee on Public Employee Retirement
St. Louis Firefighter Retirement System
Kansas City Firefighter Retirement System
Local Government Employees Retirement System
City of Kansas City



Mickey Wilson, CPA
Director
May 10, 2011