

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5002-01
Bill No.: HB 1700
Subject: Crimes and Punishment; Property, Real and Personal; Law Enforcement Officers and Agencies; Public Safety Department
Type: Original
Date: February 15, 2012

Bill Summary: This proposal requires classification of sex offenders, creates a sex offender classification board, creates a sex offender classification fund, and revises various laws dealing with sex offender registration.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Sex Offender Classification	\$0	\$0	\$0
Criminal Records	(\$63,000)	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	(\$63,000)	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 2013	FY 2014	FY 2015
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state the proposed legislation would require classification of sex offenders, create a sex offender classification board, create a sex offender classification fund, and revise various laws dealing with sex offender registration.

The MHP will require modifications to both the Missouri Sex Offender Website and the Missouri Sex Offender System to comply with HB 1700. The Patrol estimates that approximately 400 consultant hours would be required at a rate of \$95 per hour (400 x \$95 = \$38,000). The 400 consultant hours will consist of, but not limited to, website modifications to show final level III and level IV offenders only; level I, II, temporary level III offenders; inclusion of classification level for detail of offenses; status of offender's term of incarceration, probation or parole; vehicle type and data added to vehicle details; online identifiers search; and database work to add classification level field. Last year, FN 2082-07 was reported as no fiscal impact due to the fact that a grant was available to fund the project. This year, the grant is not available so there is fiscal impact and funding will be needed.

Additionally, Section 589.409.17 states that the patrol has three business days to remove a sex offender from the registry or to change their classification if it was changed by the board. Since Missouri has over 12,000 offenders, it is likely that the vast majority will apply for reclassification or removal upon the enactment of this legislation. This will greatly increase the workload on the Patrol to meet this requirement. As such, it is expected that either an electronic interface will have to be built between the Patrol and the Sex Offender Classification Board, or additional, if any, personnel would be needed to ensure the removal or change of status. The cost for each additional Criminal History Technician would be approximately \$45,000 per year. However, it is much more likely the Patrol will pursue the interface which would cost approximately \$25,000 in contractual fees (consultant time).

Officials from the **Department of Corrections (DOC)** state the bill proposes a mechanism where offenders who are required to register as a sex offender under 589.425, RSMo can request a sex offender classification that may allow the offender to reduce the frequency of reporting and to petition to be removed from the register after a period of registration. Offenders who do not have a risk classification will be required to continue to register for life.

The bill will create the Sex Offender Classification Board within the DOC (DOC) which will be responsible for a classification of offender risk. The classification will follow an evaluation by a mental health provider appointed by the Department of Mental Health (DMH.) The fee for the

ASSUMPTION (continued)

evaluation and classification will be set by the DMH and will be paid by the offender. There is no proposed fee.

The administrative costs of the Sex Offender Classification Board which will be comprised of five members and funding these DOC staff are likely to be substantial but are to be funded only from the fees paid by requesting offenders. All registering sex offenders, supervised or unsupervised, are eligible to request a risk classification so there is the potential for a large number of requests. The uncertainty is the number of offenders who may be removed from sex offender registration by the classification board. The minimum proposed time on the register is five years for the lowest risk offender. For the second lowest risk level the minimum time is ten years. Unless sex offenders have a reasonable expectation that they will be removed from the register, it is doubtful they will request an assessment, particularly if the assessment is expensive.

If fewer offenders were required to register then the number of offenders convicted of failing to register would be reduced but, with Missouri requiring a lifetime supervision for all sex offenders, the expectations that the classification board would remove a significant number of offenders is low. However, if initial expectations by offenders were high then the administrative costs would be high, at least in the early years when many offenders would request an assessment.

Impact Assessment

The impact comprises an estimate of the likely workload of the Sex Offender Classification Board and on the possible reduction in the number of offenders convicted of failing to register if fewer offenders are required to register.

On February 14th, 2012 there were 12,405 people on the active sex offender registry maintained by the Missouri State Highway Patrol (MSHP.) On said date, the DOC was supervising 2,234 on probation or parole and 5,658 were incarcerated.

Incarcerated	5,658
Probation	1,330
Parole	<u>904</u>
Total DOC	7,892

In 2011 there were 907 offenders starting probation and 1,209 offenders released from a DOC institution who were required to register.

ASSUMPTION (continued)

The legislation requires that the Sex Offender Classification Board use a validated sex offenders risk assessment. The DOC uses the Static-99R to assess sex offenders for whom the courts have requested a Sentencing Assessment Report (SAR) following a conviction for a new offense. The Static-99R is also used in the initial assessment of offenders committed to the DOC's Division of Adult Institutions and who are required to complete the Missouri Sex Offender Program (MOSOP.) The instrument was developed by Karl Hanson and David Thornton based upon Canadian and UK research of sex offenders. The instrument is widely used in the USA.

The instrument classifies offenders into four levels of risk using similar risk factors to those described in the draft legislation. An estimate of the likely breakdown of risk of offenders who will request a risk assessment can be obtained from the scoring of sex offenders with STATIC-99R from completed SARs.

Completed STATIC-99 for a SAR

Level I	38%
Level II	44%
Level III	14%
Level IV	4%
Total	100%

If the total sex offender registry has similar risk characteristics as those assessed for a SAR then 38% of offenders will score level I, the lowest level of risk and a further 44% of offenders will score level II. Level II is described in the STATIC-99 as low-medium risk.

The expectation from the impact assessment is that there is a potentially large number of offenders who could request a risk assessment and a significant number of those offenders could expect to be scored as low risk. Offenders classified as low risk would be eligible to petition for removal from the sex offender after five years.

Reduction in the number of incarcerations for failing to register - In 2011 there were 251 offenders with a conviction for failing to register. The majority of these offenders received probation but 65 received a prison term and the average time served was 13 months. Although the number of offenders who may be removed from the register is not known there is a potential to reduce the incarcerated population if the registration requirements are relaxed for low risk offenders or the registry is reduced.

ASSUMPTION (continued)

Currently, the DOC cannot predict the number of 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 (FY11 average of \$16.878 per offender, per day, or an annual cost of \$6,160 per inmate) or through supervision provided by the Board of Probation and Parole (FY11 average of \$5.12 per offender, per day or an annual cost of \$1,869 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional costs to the department; along with other noted potential costs, the exact fiscal impact is unknown for the DOC per each year.

Officials from the **Department of Mental Health (DMH)** assume they will have unknown costs associated with the following specific requirements:

- the Director of the DMH or designee of the director must meet at least twice each month the first two years and once per month thereafter. The meetings and associated activities will require the minimum of 5% of an FTE.
- the DMH will establish the protocol for the assessment fee and the fee itself; and
- the DMH will have costs associated with maintaining a list and contracts with mental health professionals qualified to make risk assessments.

Neither the Department of Corrections nor the Department of Mental Health is able to estimate the number of sexual offenders that will be adjudicated guilty in a given year. The number or percentage of those offenders also wanting to be assessed cannot be estimated. The number of those offenders wanting to be assessed that will be able to fund their assessment cannot be estimated. The assessment protocol cost has yet to be determined.

Officials from the **Department of Social Services, Department of Revenue, Joint Committee on Administrative Rules, Office of the State Courts Administrator**, and the **Office of the State Treasurer** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the Secretary of State** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$2,500. The

ASSUMPTION (continued)

Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize 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 our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost 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 Sheriff Departments of **Boone County, Buchanan County, Clark County, Cole County, Jackson County, Platte County, and St. Louis County** did not respond to our request for fiscal impact.

Oversight assumes local sheriff departments may incur additional costs to comply with the proposal and may receive a minimal amount of proceeds from charging \$20 to classify a sexual offender.

Oversight will assume the Department of Corrections and the Department of Mental Health will charge a fee and be able to collect said fee to sufficiently cover the expenses of the Sex Offender Classification Board and well as cover the expenses of the risk assessments.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Costs - DOC</u>			
Incarceration / supervision of offenders	(Unknown)	(Unknown)	(Unknown)
<u>Costs - Department of Mental Health</u>	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET FISCAL IMPACT TO GENERAL REVENUE	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2013 (10 Mo.)	FY 2014	FY 2015
SEX OFFENDER CLASSIFICATION			
Income - reimbursement of the Sex Offender Classification Board - billed the offender for expenses incurred	Unknown	Unknown	Unknown
Income - risk assessment fee to be paid by the offender requesting removal from list	Unknown	Unknown	Unknown
Costs - DOC - of the Sex Offender Classification Board	(Unknown)	(Unknown)	(Unknown)
Costs - DMH - risk assessments	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE SEX OFFENDER CLASSIFICATION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
 CRIMINAL RECORDS FUND			
<u>Costs - Highway Patrol</u> Consultant Fees	(\$38,000)	\$0	\$0
<u>Costs - Highway Patrol</u> Electronic interface	<u>(\$25,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO THE CRIMINAL RECORDS FUND	<u>(\$63,000)</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
LOCAL LAW ENFORCEMENT			
<u>Income</u> - may charge an offender up to \$20 to classifying a sex offender	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> - potential costs to comply with the proposal	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
LOCAL LAW ENFORCEMENT	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding sexual offender registration. The bill:

1. Requires any person to whom the registration requirements apply to register with the chief law enforcement official in the county in which he or she resides within five business days of adjudication or release from commitment of the Division of Youth Services, the Department of Mental Health, or other placement or who is paroled, discharged, or otherwise released from any Department of Corrections correctional facility, mental health institution, private jail, or other specified private facility. The official in charge of a correctional or mental health facility is required to inform the offender of his or her possible duty to register and complete the initial registration at least seven days prior to release and forward the registration, within three business days of release, to the State Highway Patrol and to the chief law enforcement official in the county where the offender expects to reside upon release. If he or she is not planning on residing in Missouri, the information must be forwarded to the State Highway Patrol and to the chief law enforcement official in the county where the facility is located;
2. Allows the chief law enforcement officer of the county to charge a fee up to \$20 for classifying a registering sex offender;

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FISCAL DESCRIPTION (continued)

3. Specifies that the offender is responsible for reviewing his or her existing registration information for accuracy at every regular in-person appearance and provide proof if any inaccuracies are found. The registering law enforcement official must, within three business days, correct the inaccuracy on its law enforcement registry and public website, if any, and notify the patrol of the change, who must correct the inaccuracy on its registry and public website within three business days;
4. Specifies the information that must be included with the request for removal; requires the offender to pay any costs incurred by the board in obtaining records; requires a Level IV or Final III offender, who has not previously had a successfully completed risk assessment report filed with the board, to obtain a risk assessment and pay the fee associated with the assessment;
5. Requires the offender, if deemed necessary by the board, to obtain a second risk assessment and pay the fee associated with the assessment; and requires the offender to give notice of the filing of his or her request for removal to the prosecuting attorney in the county where the offense requiring registration was adjudicated; and
6. Requires the Department of Mental Health, in cooperation with the Department of Corrections, to determine the amount of the risk assessment fee required to be paid by any Temporary Level III sex offender who files a request for classification with the board. The fee will be in an amount to cover the cost of the sex offender risk assessment, including a successfully completed sex offender risk assessment report from a mental health professional required by the board to evaluate and finally classify the offender. The Sex Offender Classification Fund is created, which will consist of risk assessment fees collected by the board and used to pay mental health providers;

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
Department of Corrections
Department of Mental Health
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Treasurer
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Social Services
Department of Revenue

Not Responding:

Boone County Sheriff
Buchanan County Sheriff
Clark County Sheriff
Cole County Sheriff
Jackson County Sheriff
Platte County Sheriff
St. Louis County Sheriff



Mickey Wilson, CPA
Director
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