COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5415-04
Bill No.: Perfected HCS for HB 1515
Subject: Crimes and Punishment; Disabilities; Elderly
Type: Original
Date: April 4, 2012

Bill Summary: This proposal changes various provisions about crime.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	($3,000,000) or ($4,166,666)	($3,000,000) or ($3,233,333)	($3,000,000 to $3,100,000)
Total Estimated Net Effect on General Revenue Fund	**($3,000,000) or ($4,166,666)**	**($3,000,000) or ($3,233,333)**	**($3,000,000 to $3,100,000)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
DNA Profiling Analysis	$0 or $1,166,666	$1,166,666 or $1,400,000	$1,400,000
Cyber Crime Investigation	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$0 or $1,166,666**	**$1,166,666 or $1,400,000**	**$1,400,000**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Federal Funds	$5,000	$5,000	$5,000
Total Estimated Net Effect on All Federal Funds	**$5,000**	**$5,000**	**$5,000**

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	**Unknown - could exceed $3,000,000**	**Unknown - could exceed $3,000,000**	**Unknown - could exceed $3,000,000**

FISCAL ANALYSIS

ASSUMPTION

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of disrupting a house of worship - a new class B misdemeanor - subsequent offenses would be a class A misdemeanor. A third offense would be a class D felony. The proposed legislation also creates the new crime of false identification to a law enforcement officer - a new class B misdemeanor. It also enhances penalties for making a false report - a class B misdemeanor unless the crime which was falsely reported was a felony, in which case the false reporting will become a class D felony.

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 effective representation in all cases.

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

Officials from the **Office of Prosecution Services** assume the proposal will have no measurable fiscal impact on their office. The creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Officials from the **Department of Health and Senior Services**, **Department of Insurance, Financial Institutions and Professional Registration** and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state this bill enhances the crime criteria of elder abuse by adding the term "undue influence" to the scope of methods that may be used to commit the outlined crimes, as well as making a false report, and disrupting a house of worship.

The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class D 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.

ASSUMPTION (continued)

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 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.

New subsection 7 of Section 570.145 allows county prosecutors to retain 10 percent of an amount collected under an order of restitution. Therefore, **Oversight** will reflect a $0 or unknown positive fiscal impact to county prosecutors from this proposal.

Sections 488.5050, 650.055 and 650.100 - DNA profiling;

Officials from the **Office of Administration - Budget and Planning (BAP)** state this proposal would remove the stipulation that the General Revenue Fund must grow by two percent or more before proceeds from the court fee are deposited in the DNA Profiling Analysis Fund. For fiscal years 2012 and 2013, the General Revenue Fund is projected to grow by more than two percent, allowing for the transfer into the DNA Profiling Analysis Fund. The DNA Profiling Analysis Fund is estimated to receive $1.3 million for fiscal years 2012 and 2013.

Officials from the **Department of Public Safety - Missouri Highway Patrol** state their Crime Laboratory Division states that in FY10 and FY11, all the funding intended for the DNA Profiling Fund, approximately $1.4 million annually, was redirected to the General Revenue Fund along with all associated expenses. This funding originates from court fees assessed on individuals convicted of a felony or misdemeanor. This legislation would redirect the funding and all associated expenses currently diverted to General Revenue back to the DNA Profiling Fund.

ASSUMPTION (continued)

The receipts into the DNA Profiling Analysis Fund (0772) for the past five years have been:

FY 2011	$ 0
FY 2010	$ 5,098
FY 2009	$1,464,814
FY 2008	$1,477,609
FY 2007	$1,434,384
FY 2006	$1,324,125

With the removal of the August 28, 2013 sunset on the surcharges in Section 488.5050, **Oversight** will reflect an annual revenue of $1.4 million into the DNA Profiling Analysis Fund based upon responses from the Missouri Highway Patrol and Budget and Planning. Without this proposal, the sunset would remove these surcharges; therefore, Oversight assumes this proposal will result in the continuance of proceeds into the fund. Oversight will reflect ten months of continued income in FY 2014.

Oversight will reflect a potential loss to the General Revenue Fund in FY 2013 and FY 2014 from the removal of subsection 4 of 488.5050. With this removal, all proceeds from the surcharges in this section will go to the DNA Profiling Analysis Fund instead of potentially the General Revenue Fund. Since it is unknown if General Revenue will grow by 2% or more, Oversight will reflect this potential as $0 or ($1,400,000) per year. The surcharges are set to sunset in August 2013; therefore, Oversight will reflect 2 months in FY 2014.

Section 513.653 - Audit of seized funds;

Officials from the **Office of the State Auditor** assume the proposal would not fiscally impact their agency.

Officials from the **Department of Public Safety - Missouri Highway Patrol** state they would save $5,000 per year from the Federal Drug Seizure Fund because they would no longer be required to pay the annual cost of an independent audit.

Officials from **Springfield Police Department** state the proposal would result in a cost savings of approximately $1,060 (amount paid for the independent auditor) per year.

ASSUMPTION (continued)

Officials from the **Boone County Sheriff's Office** assume the proposal would not fiscally impact their agency.

Oversight will reflect an unknown savings to local political subdivisions

Cyber Crime Investigation (Section 650.120);

Officials from the **Department of Social Services (DOS)** state passing of the bill would enact RSMo. 650.120, which would allow the State Technical Assistance Team (STAT) to apply for additional grant funding. If the bill does not pass, additional grant funding will be discontinued.

STAT is a recipient of the Cyber Crime Investigative Fund Grant Program, for which in FY 2012, we received $84,516, which is used to train employees in advanced high technology forensic investigative techniques, as well as purchase software, equipment and supplies for conducting high tech children's events investigations. Loss of this grant funding would have a negative impact in the above listed areas, which could also be reflected in the ability to protect Missouri children from high tech predators. As the grant funds are above and beyond STAT's budget, there is no fiscal impact.

In response to a similar proposal from this year (HB 1750), officials from the **Department of Public Safety - Missouri Highway Patrol** and the **Springfield Police Department** each assumed the proposal would not fiscally impact their respective agencies.

In response to a similar proposal from this year (HB 1750), officials from the **Boone County Sheriff's Office** stated they currently receive funding for two detectives, equipment, training and overtime for their Cyber Crimes Unit. Last year's grant provided $173,300. This year's grant totals $153,305 in funding. With these grants, the Sheriff's Office do not then have to come from the department's general budget. It is not known whether Boone County would be able to cover the loss of these funds to continue to employ two of the Cyber Crimes Unit detectives and/or keep the unit operational.

Officials from the **Department of Public Safety - Director's Office** did not respond to our request for fiscal impact; however, **Oversight** completed a sunset review of the program last summer. Below is information Oversight compiled during that sunset review:

ASSUMPTION (continued)

Beginning with fiscal year 2010 and each subsequent year, the General Assembly was to appropriate three million dollars to the Cyber Crime Investigation Fund to fund the program. The Department of Public Safety administers the fund.

State funding of the Internet Cyber Crime Grant (ICCG) program began in Fiscal Year 2007 and lasted for three years. The program was funded through the state's General Revenue Fund and expenditures in the program for those three years were:

1. $ 184,558 in FY 2007 (2007 ICCG);
2. $1,025,285 in FY 2008 (2008 ICCG); and
3. $1,357,748 in FY 2009 (2009 ICCG).

In 2009, the American Recovery and Reinvestment Act (ARRA), commonly known as the federal stimulus program, was signed into law which provided additional funding to the Edward Byrne Memorial Justice Assistance Grant (JAG) for state and local law enforcement agencies. In 2010, DPS stopped funding the ICCG program and started a very similar program funded with stimulus funds and named the new program the Multi-Jurisdictional Cyber Crime Grant Program (MJCCG) to distinguish it from the ICCG. For the past three years, all Missouri cyber crime grants have been awarded under MJCCG program. Federal funding of the MJCCG began in State Fiscal Year 2010 and will last through FY 2012 (at which time the federal stimulus funding is believed to expire). Expenditures/awards in the program for those three years are:

4. $1,407,009 of expenditures in FY 2010 (2009 MJCCG);
5. $1,419,768 of awards in FY 2011 (2010 MJCCG); and
6. $1,516,699 of awards in FY 2012 (2011 MJCCG).

ASSUMPTION (continued)

Therefore, for the past three fiscal years, funding for the program has been with federal stimulus funding and has not met the stated $3 million annual threshold.

Program Year	**Program**	**Contract Period**	**Grantees**	**Award**	**Expenditure**	**Funding Source**
2007	ICCG	7/1/06 - 6/30/07	11	$242,388	$184,558*	General Revenue
2008	ICCG	7/1/07 - 5/31/08	15	$1,208,527	$1,025,285*	General Revenue
2009	ICCG	6/1/08 - 5/31/09	15	$1,455,398	$1,357,748*	General Revenue
2009**	MJCCG	6/1/09 - 6/30/10	13	$1,499,597	$1,407,009	ARRA
2010	MJCCG	7/1/10 - 6/30/11	14	$1,419,768	Not Available	ARRA
2011	MJCCG	7/1/11 - 6/30/12	14	$1,516,699	Not Complete	ARRA

This table shows the various task forces throughout the state that are receiving funding in the current fiscal year through the federal program (MJCCG).

	Task Force	Project Title	Requested Funding	Award
1	Boone County, Cyber Task Force	Boone County Sheriff's Department Cyber Crimes Task Force	$204,378	$152,305
2	Clayton, RCCEEG	Regional Computer Crime Education & Enforcement Group	$139,655	$138,802
3	Dent County, Cyber Task Force	South Central Missouri Computer Crime Task Force	$44,186	$44,186
4	Independence, Cyber Unit	Northeastern Jackson County Cyber Crimes Working Group Against Internet Crime	$138,851	$121,092
5	Joplin, Cyber Task Force	Southwestern Missouri Cyber Crime Task Force	$177,586	$177,182
6	Kirksville, Cyber Task Force	Kirksville Regional Computer Crimes Unit	$59,742	$59,742
7	Missouri Department of Social Services, STAT	Operation Cyber-Safe	$97,362	$84,512

8	Missouri State Highway Patrol, Cyber Crime Unit	Computer Forensic Unit	$42,057	$31,989
9	Platte County, PCMEG	Western Missouri Cyber Crimes Task Force	$423,006	$202,677
10	Poplar Bluff, SEMO Cyber Unit	SEMO Cyber Crimes Task Force	$129,215	$105,206
11	Springfield, Cyber Crime Task Force	2012 Internet Cyber Crime Initiative	$237,582	$73,748
12	St Charles County, Cyber Task Force	St. Charles County Internet Crimes Against Children	$191,584	$190,864
13	St. Louis County, Cyber Task Force	2011 MJCCG - Special Investigations Personnel Upgrade	$181,622	$63,746
14	Stone County, Tri-Lakes Cyber Task Force	Tri-Lakes Regional Internet Crimes Task Force	$93,490	$70,646
	Total Funding		**$2,160,318**	**$1,516,698**

Oversight assumes the federal stimulus funding for this program will be exhausted by the end of FY 2012. Therefore, Oversight will assume an annual cost of $3 million to the General Revenue Fund to continue this program in FY 2013 and beyond. The Department of Public Safety is allowed to retain up to three percent of the funding for administrative expenses.

Two state agencies (Missouri Highway Patrol and the Department of Social Services) have received funding through this program for the last five years. Therefore, Oversight will show potentially not all of the $3 million being distributed to local political subdivisions (some of the money could be granted to state agencies that work in this field and Department of Public Safety - Director's Office could retain a percentage of the $3 million for administrative expenses).

House Amendment 1:

In response to a similar proposal from this year (HB 1822), officials from the **Department of Social Services - Children's Division** stated this modifies or cleans up the language and provisions related to protection orders in response to domestic violence. The Children's Division does not anticipate a fiscal impact as a result of the bill.

House Amendment 2:

Oversight assumes this amendment would not have a fiscal impact.

ASSUMPTION (continued)

House Amendment 3:

In response to a similar proposal from this year (HB 1491), officials from the **Department of Social Services - Children's Division (CD)** in some cases this proposal may create a small increase in duplicate reports for the same incident. Current protocols in many schools and institutions require staff to report the incident to administration, who would then make the decision whether to report or not. These protocols might change slightly, requiring staff to report to administration, but to call in to the hotline directly.

The CD does not anticipate a fiscal or programmatic impact as a result of this legislation.

House Amendment 4:

In response to a similar proposal from this year (HB 1817), officials from the **Department of Corrections (DOC)** stated this will eliminate the requirement of the Sentencing Advisory Commission to establish and publish a system of recommended sentences. The research responsibilities of the commission with regard to measuring sentencing disparity and investigating alternative sentencing will remain.

The DOC incorporates the recommended sentences and the commission's risk assessment into the sentencing assessment reports that are requested by the courts. Elimination of the recommended sentences would have costs to the department associated with the required modification to the data systems that provide the sentencing assessment reports.

DOC is unable to determine at this time the impact of these changes on sentencing practices. Therefore, the fiscal impact of this legislation on DOC is (Unknown).

In response to HB 257 in 2011, which abolished the Sentencing Advisory Commission, the Office of the State Courts Administrator assumed a savings of the one FTE that is currently assigned to the commission. This amendment does not abolish the commission, only reduces their tasks by eliminating the system of recommended sentences. **Oversight** assumes this will not reduce the need for the FTE assigned to the commission.

Oversight also assumes the DOC will be able to absorb any additional responsibilities that result from this amendment with existing resources.

ASSUMPTION (continued)

House Amendment 5:

In response to a similar proposal from this year (HB 1970), officials from the **Department of Health and Senior Services**, **Department of Public Safety - Missouri Highway Patrol**, **Office of the State Courts Administrator**, **Office of Administration**, **Jefferson City Police Department**, **Springfield Police Department** and the **Boone County Sheriff's Office** each assumed the proposal would not fiscally impact their respective agencies.

Also in response to a similar proposal from this year (HB 1970), officials from the **Attorney General's Office** assumed that any potential costs arising from the proposal could be absorbed with existing resources.

House Amendment 6:

In response to a similar proposal from this year (HCS No. 2 for HB 1323), officials from the **Office of State Courts Administrator, Department of Health and Senior Services** and **Department of Social Services** each assumed the proposal will have no fiscal impact on their respective organizations.

FISCAL IMPACT - State Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
Costs - Department of Corrections Incarceration / supervision of offenders of various new/enhanced crimes within the substitute	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
Loss - removal of stipulation that if the General Revenue Fund does not grow by 2%, the State Treasurer shall deposit revenue from the surcharges listed in 488.5050 into it instead of the DNA Profiling Analysis Fund	$0 or ($1,166,666)	$0 or ($233,333)	$0
Transfer Out - to the Cyber Crime Investigation Fund - to continue the Internet Cyber Crime Grant Program (Section 650.120)	($3,000,000)	($3,000,000)	($3,000,000)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**($3,000,000) or ($4,166,666)**	**($3,000,000) or ($3,233,333)**	**($3,000,000 to $3,100,000)**
DNA PROFILING ANALYSIS FUND			
Income - removal of sunset date for surcharges listed in Section 488.5050	$0	$1,166,666	$1,400,000
Income - removal of stipulation that General Revenue must grow by 2% for this fund to get surcharges listed in 488.5050	$0 or $1,166,666	$0 or $233,333	$0
ESTIMATED NET EFFECT TO THE DNA PROFILING ANALYSIS FUND	**$0 or $1,166,666**	**$1,166,666 or $1,400,000**	**$1,400,000**

FISCAL IMPACT - State Government (continued)	FY 2013 (10 Mo.)	FY 2014	FY 2015
CYBER CRIME INVESTIGATION FUND			
Transfer In - from the General Revenue Fund (Section 650.120)	$3,000,000	$3,000,000	$3,000,000
Costs - Department of Public Safety is allowed to retain up to 3% of funding for administrative expense (Section 650.120)	(Up to $90,000)	(Up to $90,000)	(Up to $90,000)
Costs - grants to multijurisdictional internet cyber crime law enforcement task forces (Section 650.120)	(At least $2,910,000)	(At least $2,910,000)	(At least $2,910,000)
ESTIMATED NET EFFECT TO THE CYBER CRIME INVESTIGATION FUND	**$0**	**$0**	**$0**
FEDERAL FUNDS			
Savings - Missouri Highway Patrol No longer required to have an independent audit of forfeiture proceeds (Section 513.653)	$5,000	$5,000	$5,000
ESTIMATED NET EFFECT TO FEDERAL FUNDS	**$5,000**	**$5,000**	**$5,000**

FISCAL IMPACT - Local Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
LOCAL POLICE DEPARTMENTS, SHERIFF'S OFFICES AND COUNTY PROSECUTORS			
Savings - Sheriffs and Police Departments - no longer required to have an independent audit performed on federal forfeitures (Section 513.653)	Unknown	Unknown	Unknown
Income - county prosecutors are allowed to retail ten percent of an order or restitution under new 570.145.7	$0 or Unknown	$0 or Unknown	$0 or Unknown
Income - grants from the Missouri Department of Public Safety for the Internet Cyber Crime Grant program (Section 650.120)	Up to $3,000,000	Up to $3,000,000	Up to $3,000,000
ESTIMATED NET EFFECT TO LOCAL POLICE DEPARTMENTS, SHERIFF'S OFFICES, AND COUNTY PROSECUTORS	**Unknown - could exceed $3,000,000**	**Unknown - could exceed $3,000,000**	**Unknown - could exceed $3,000,000**

FISCAL IMPACT - Small Business

Small businesses that perform audits for law enforcement agencies and the federal forfeiture system may lose some business as a result of this proposal (Section 513.653).

FISCAL DESCRIPTION

Section 488.5050 -

(1) Changes when a surcharge is assessed for deposit into the DNA Profiling Analysis Fund to include all criminal cases, except traffic violations, in which the defendant pleads guilty, is found guilty, or is convicted. Currently, it is assessed in all criminal cases, except traffic violations, in which the defendant pleads guilty or nolo contendere to or is convicted of a felony;

FISCAL DESCRIPTION (continued)

(2) Removes the provision requiring the moneys collected by the surcharge to be deposited into the General Revenue Fund if the state's general revenue did not increase by 2% or more and removes the expiration date of August 28, 2013, regarding the assessment of the surcharge;

Section 513.653 - currently, a law enforcement agency involved in using the federal forfeiture system under federal law is required each fiscal year to acquire an independent audit of the federal seizures and proceeds therefrom and provide the audit to its governing body, the Department of Public Safety, and the Office of the State Auditor. This bill removes the audit requirement and requires the law enforcement agency to file an annual report by January 31 regarding federal seizures and proceeds for the previous year with the Department and the Auditor's office. The detailed information that the report must contain is specified.

Section 570.145 - if a person is found guilty of financial exploitation by being in possession of funds disclosed as income or assets in department records and the funds are owed to a nursing facility, the court can order the offender to make restitution to the facility. The prosecuting attorney may receive ten percent of the funds collected under the order as reimbursements for the cost of enforcement.

Section 650.120 - currently, the provisions regarding Internet cyber crime law enforcement task forces and the Cyber Crime Investigation Fund expire on June 5, 2012. This proposal extends these provisions to August 28, 2022.

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

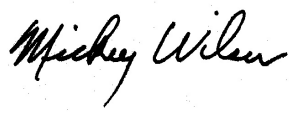
SOURCES OF INFORMATION

Department of Public Safety
Office of the State Courts Administrator
Office of the State Public Defender
Department of Corrections
Office of Prosecution Services
Department of Insurance, Financial Institutions and Professional Registration
Office of the State Auditor
Department of Social Services
Office of Administration
Department of Health and Senior Services

RS:LR:OD

SOURCES OF INFORMATION (continued)

Attorney General's Office
Jefferson City Police Department
Springfield Police Department
Boone County Sheriff's Office



Mickey Wilson, CPA
Director
April 4, 2012

RS:LR:OD