

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1015-01
Bill No.: HB 280
Subject: Crimes and Punishment; Elementary and Secondary Education Department;
 Children and Minors
Type: Original
Date: February 19, 2013

Bill Summary: This proposal changes the laws regarding sexual assaults

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on General Revenue Fund*	\$0	\$0	\$0

* Potential fiscal impact to the Department of Corrections is beyond the time period (scope) reflected in this fiscal note.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
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 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Public Defender** assume the proposal would not create a fiscal impact. Although, SPD believes the bill, specifically as it pertains to Section 566.030 and 566.060, would increase the punishments associated with certain sex crimes. It would not convert any misdemeanors into felonies, or vice versa, and therefore, would not have any impact under our protocol, since all felony sex cases have the same weight no matter the degree of felony.

Officials from the **Department of Social Services (DSS)** state sections 566.030 to 566.101 of the proposal renames and redefines several crimes dealing with sexual assault.

Old Name	New Name
Forcible Rape	Rape in the First Degree
Sexual Assault	Rape in the Second Degree
Forcible Sodomy	Sodomy in the First Degree
Deviate Sexual Assault	Sodomy in the Second Degree
Sexual Abuse	Sexual Abuse in the First Degree
Sexual Abuse in the First Degree	Sexual Abuse in the Second Degree
Sexual Misconduct in the First Degree	Sexual Abuse in the Second Degree
Sexual Misconduct in the Second Degree	Sexual Misconduct in the First Degree
Sexual Misconduct in the Third Degree	Sexual Misconduct in the Second Degree

The penalties for each crime remain basically the same. The rest of the bill consists of the necessary statutory revisions to bring related statutory sections into alignment with the new nomenclature.

There is no fiscal impact to the Department of Social Services. Although the names of the offenses are different, there is no change to DSS's responsibilities. For instance, it would still be the Division of Youth Services' (DYS) responsibility under Section 160.261 to report acts of school violence in DYS facilities to the appropriate law enforcement agency. The same is true of Section 211.447, which allows the court to terminate the parental rights of the biological father when the child was conceived as a result of forcible (now first degree) rape.

Officials from the **Department of Corrections (DOC)** state passage of this proposal would result in certain sex offenders sentenced to DOC for longer incarceration periods and for serving sentences consecutively instead of concurrently. These years of incarceration would be served in addition to their current sentence and fiscal impact would occur after the scope of this fiscal note.

ASSUMPTION (continued)

If persons are sentenced to the custody of the DOC for longer terms due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost through incarceration (FY12 average of \$17.059 per offender, per day, or an annual cost of \$6,227 per inmate).

In summary, supervision by the DOC through incarceration would result in additional costs to the department and the exact fiscal impact is unknown, but it will be past the scope of this fiscal note.

Officials from the **Department of Elementary and Secondary Education (DESE)** state there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Office of Prosecution Services, Department of Insurance, Financial Institutions and Professional Registration, Department of Mental Health, Office of the State Courts Administrator, Department of Public Safety - Missouri Highway Patrol,** and the **Parkway School District** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u> *	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

*Potential fiscal impact to the Department of Corrections is beyond the time period (scope) reflected in this note.

FISCAL IMPACT - Local Government

FY 2014
(10 Mo.)

FY 2015

FY 2016

\$0

\$0

\$0

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 certain sexual offenses. In its main provisions, the bill:

(1) Renames the crime of forcible rape to rape in the first degree and specifies that a person commits the crime if he or she has sexual intercourse with an individual who is incapacitated, incapable of consent, or lacks the capacity to consent or by the use of forcible compulsion;

(2) Renames the crime of forcible sodomy to sodomy in the first degree and specifies that a person commits the offense if he or she has deviate sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent or by the use of forcible compulsion;

(3) Renames the crime of sexual assault to rape in the second degree;

(4) Renames the crime of deviate sexual assault to sodomy in the second degree;

(5) Renames the crime of sexual abuse to sexual abuse in the first degree and specifies that a person commits the offense if he or she subjects another person to sexual contact when that person is incapacitated, incapable of consent, or lacks the capacity to consent or by the use of forcible compulsion;

(6) Renames the crime of "sexual misconduct in the second degree" to "sexual misconduct in the first degree";

(7) Renames the crime of "sexual misconduct in the third degree" to "sexual misconduct in the second degree";

(8) Renames the crime of "sexual misconduct" to "sexual abuse in the second degree";

FISCAL DESCRIPTION (continued)

(9) Specifies that a real estate broker's or salesperson's license must be revoked and an applicant must not be issued a license if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of rape in the first degree, rape in the second degree, sodomy in the first degree, sodomy in the second degree, or sexual abuse in the first or second degree;

(10) Specifies that a prosecution for rape in the first degree, attempted rape in the first degree, sodomy in the first degree, or attempted sodomy in the first degree may be commenced at any time;

(11) Defines the term "domestic violence", "family" and "household member" as they apply to certain information that an insurance company cannot disclose to be the same as they are in Section 455.010, RSMo;

(12) Specifies that a prosecution for an unlawful sexual offense involving a person 18 years old or younger must be commenced within 30 years after the victim reaches the age of 18 unless the prosecution is for rape in the first degree, attempted rape in the first degree, sodomy in the first degree, or attempted sodomy in the first degree, in which case the prosecution may be commenced at any time;

(13) Includes being in a drug-induced state or for any other reason being manifestly unable or known by the actor to be unable to make a reasonable judgment to those who are incapable of giving consent to sexual activity; and

(14) Repeals the provision which specifies that a person is not considered incapacitated with respect to an act committed upon a person if he or she became unconscious, unable to appraise the nature of the person's conduct or unable to communicate unwillingness to an act after consenting to the act.

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 Elementary and Secondary Education
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 Social Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Parkway School District



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