

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3614-08
Bill No.: Truly Agreed To and Finally Passed HCS for SS for SCS for SBs 818 & 795
Subject: Crimes and Punishment; Children and Minors; Science and Technology
Type: Original
Date: May 28, 2008

Bill Summary: The proposal modifies various provisions relating to stalking and harassment.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
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 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
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 2009	FY 2010	FY 2011
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol, – Director’s Office, Boone County Sheriff’s Department, and the Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools 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.

DESE states the proposal adds harassment and stalking to the list of crimes school districts are required to report to the appropriate law enforcement agency. The proposal also appears to expand the definitions of harassment and stalking such that school districts would have to report instances which currently do not require reporting. DESE defers to the local school districts regarding processes and costs involved with this increased reporting requirement.

Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Department of Corrections (DOC)** assume the penalty provision component of the proposal resulting in potential fiscal impact for the DOC is for up to a class C felony when prior like charges exist, as defined.

ASSUMPTION (continued)

DOC cannot currently 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 operational cost either through incarceration (FY07 average of \$41.21 per inmate per day, or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender per day, or an annual cost of \$887 per offender).

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per 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 Social Services (DOS)** states the Division of Youth Services, acting in their capacity as a school district, already has a discipline policy in place. Adding two crimes to the list would have little or no affect. Therefore, there is no fiscal impact to DOS.

Officials from the **Office of Prosecution Services (OPS)** assume the provisions of the proposed legislation expand the scope of existing criminal laws. OPS assumes this proposal would result in an increase in the number of cases referred to county prosecuting attorneys for prosecution. In the absence of any estimates of the number of additional criminal cases that would be referred to county prosecutors for charges because of this proposed legislation, it is not possible to provide estimates concerning the extent of any fiscal impact. OPS assumes the proposal would not have a significant direct fiscal impact on the Office of Prosecution Services.

ASSUMPTION (continued)

Oversight assumes county prosecutors could experience an increase in cases as a result of the proposed legislation. The number of new cases referred to prosecuting attorneys cannot be determined. Therefore, Oversight has reflected the increased cost to county prosecutors as (Unknown).

In response to a previous version of the proposal (SS for SCS for SBs 818 & 795), officials from the **Office of the State Public Defender (SPD)** assumed increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations 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 Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the Greene County Sheriff’s Department, Jackson County Sheriff’s Department, St. Louis County Police Department, Columbia Police Department, Kansas City Police Department, St. Louis Metropolitan Police Department, Columbia Public School District, Kansas City Public School District, Mexico Public School District, Nixa Public School District, Parkway Public School District, Sedalia Public School District, and the St. Louis Public School District did not respond to Oversight’s request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
LOCAL GOVERNMENT			
<u>Costs – County Prosecutors</u>			
Increased cases for prosecution	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>(Unknown)</u>	<u>(Unknown)</u>	<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

The proposed legislation modifies provisions relating to crimes of stalking and harassment. The proposal also modifies provisions relating to search warrants.

School boards are required to have a written policy requiring school administrators to report crimes of harassment and stalking committed on school property to law enforcement. (Section 160.261)

Communications conducted to knowingly frighten, intimidate, or cause emotional distress to another person are included in the crime of harassment. Harassment includes communications by any means. The crime also includes using coarse language that put the person in reasonable apprehension of offensive physical contact or harm and knowingly using coarse language with a person. A person also commits such crime by knowingly and without good cause engaging in any other act that frightens, intimidates, disturbs or causes emotional distress to another person. A person also commits harassment by knowingly communicating with another person who is, or who purports to be, seventeen years of age or younger and in so doing and without good cause recklessly frightens, intimidates, or causes emotional distress. Currently, harassment is a class A misdemeanor. Under this proposal, it is a class A misdemeanor unless 1) committed by a person twenty-one years of age or older against a person seventeen years of age or younger or 2) the person has previously committed the crime of harassment. In such cases, harassment is a class D felony. (Section 565.090)

FISCAL DESCRIPTION (continued)

The proposal expands the crime of stalking to include any course of conduct with two or more acts over a period of time that is communicated by any means. A “credible threat” includes those made with the intent to cause the person who is the target to reasonably fear for his or her family’s safety, family pet’s safety, or livestock’s safety, and not only his or her own safety. Under the proposal, the definition of “harasses” is modified to include conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person to be frightened or intimidated, as well as emotionally disturbed or distressed.

A person must only purposely harass a person, rather than purposely and repeatedly harass, to commit the crime of stalking or aggravated stalking.

Currently, a person commits the crime of aggravated stalking by purposely harassing another person and making a credible threat with the intent to place that person in reasonable fear of death or serious physical injury. Under the proposal, a person commits such crime by purposely harassing another person and 1) making a credible threat; 2) at least one of the actions constituting the offense is a violation of an order of protection about which the person received notice; 3) at least one action constituting the offense is a probation, parole, or release of bond violation; 4) the other person is seventeen years of age or younger and the person harassing such person is twenty-one years or older; or 5) he or she has previously pleaded guilty to or been found guilty of domestic assault, violation of a protection order, or any other crime where the other person was the victim.

Currently, stalking is a class A misdemeanor for a first offense and a class D felony for a second offense committed within five years of the first offense. Under the proposal, stalking is a class A misdemeanor unless the person has previously committed a stalking offense, in which case, it is a class D felony.

Currently, aggravated stalking is a class D felony for a first offense and a class C felony for a second offense committed within five years of the first offense. Under the proposal, aggravated stalking is class D felony unless the person has previously committed a stalking offense, in which case, it is a class C felony. (Section 565.225)

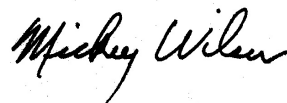
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Corrections
Department of Social Services
Department of Public Safety
 – Missouri State Highway Patrol
 – Director's Office
Office of Prosecution Services
Office of the State Public Defender
Boone County Sheriff's Department
Springfield Police Department

NOT RESPONDING

Greene County Sheriff's Department
Jackson County Sheriff's Department
St. Louis County Police Department
Columbia Police Department
Kansas City Police Department
St. Louis Metropolitan Police Department
Columbia Public School District
Kansas City Public School District
Mexico Public School District
Nixa Public School District
Parkway Public School District
Sedalia Public School District
St. Louis Public School District



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