

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4606-02
Bill No.: SB 556
Subject: Crimes and Punishment; Firearms and Fireworks; Law Enforcement Officers and Agencies; Public Records; Public Safety Department; Weapons
Type: Original
Date: February 10, 2014

Bill Summary: This proposal creates reporting requirements for lost or stolen firearms, expands the list of crimes that are eligible for expungement, and creates a gun buyback pilot program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(\$300,000)	(\$300,000)	(\$300,000)
Total Estimated Net Effect on General Revenue Fund	(\$300,000)	(\$300,000)	(\$300,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Firearms Recovery*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Annual transfers-in and grants of \$300,000

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
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 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed legislation creates reporting requirements for lost or stolen firearms, expands the list of crimes that are eligible for expungement, and creates a gun buyback pilot program.

During the past five years (2009 - 2013), there was an average of 10,120 Chapter 195 Associate Level charges and 2,002 Circuit Level charges that would be eligible for expungement. We are unable to determine how many of these charges would have been committed by a commercial driver's license holder, which shall not be eligible for expungement under this section.

There may be some, unquantifiable at this time, impact. Any significant changes will be reflected in future budget requests.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state that there are currently 236,321 arrest charges that could potentially qualify for expungement under this new legislation. Of those, at least 78,774 or 1/3 are old enough to qualify under the required number of years for a felony or misdemeanor restriction created by this bill. If every person who is qualified to have his or her record expunged would submit a petition, there would be approximately 75,000 petitions for expungement and this would require 60 FTEs. There are an average of 23,800 arrests made each year for misdemeanor violations of these sections which provides the potential number for petitions each year after the initial eligible petitions were processed.

1 FTE = 1,856 hours (average work hours per year) x 60 minutes per hour = 111,360 minutes per year.

The current average time per petition to log, process, research, review, create related correspondences, and to expunge the information when the order is received is 90 minutes. Therefore, one FTE can handle 1,237 expungements per year (111,360 / 90).

ASSUMPTION (continued)

With the current estimated potential of 75,000 petitions eligible for expungement upon enactment of this legislation, the following percentages of persons actually requesting an expungement will directly relate to the number of FTEs actually required:

10% = $75,000 \times .10 = 7,500 / 1,237 = 6.06$ FTEs
20% = $75,000 \times .20 = 15,000 / 1,237 = 12.12$ FTEs
30% = $75,000 \times .30 = 22,500 / 1,237 = 18.18$ FTEs
40% = $75,000 \times .40 = 30,000 / 1,237 = 24.25$ FTEs
50% = $75,000 \times .50 = 37,500 / 1,237 = 30.31$ FTEs
60% = $75,000 \times .60 = 45,000 / 1,237 = 36.37$ FTEs
70% = $75,000 \times .70 = 52,500 / 1,237 = 42.44$ FTEs
80% = $75,000 \times .80 = 60,000 / 1,237 = 48.50$ FTEs
90% = $75,000 \times .90 = 67,500 / 1,237 = 54.56$ FTEs
100% = $75,000 / 1,237 = 60.63$ FTEs

While it is unrealistic to project that 100% of the persons eligible would file petitions for expungement, it would be a conservative estimate that 20 to 30 percent would file each year. With any significant change in expungement eligibility, there will be a larger amount of expungements filed in the first three years due to the large number of persons already eligible when the law becomes effective which could potentially increase the number of FTEs during this time frame.

These FTE (Criminal History Technicians) would be necessary to process all expungement requests, review criminal history records, contact any agency associated with the arrests or convictions, and collect the necessary data for the court orders.

Based on our estimate that 20% to 30% of those eligible would file, 12 to 18 FTEs would be needed to process the added expungement requests for at least the first three years after enactment. For purposes of this fiscal note, the Patrol will request 15 which is the middle of that range. It is anticipated, based on arrests by this statute, the number of necessary FTEs would drop to 4-6 after this initial period. These FTE (Criminal History Technicians) would be necessary to process all expungement requests, review criminal history records, contact any agency associated with the arrests or convictions, and collect the necessary data for the court orders. These FTE will most likely be 2nd and 3rd shift employees so they would not require any equipment. However, there would be recurring costs of \$650 per year per FTE for office supplies and phone charges. If any FTE were placed on the 1st shift, standard equipment would be required at a one-time cost of \$3,566 per FTE.

ASSUMPTION (continued)

In summary, the MHP assumes an annual cost of approximately \$750,000 to the Criminal Records Fund as a result of this proposal.

Officials from the **Department of Corrections (DOC)** state their computer system for monitoring inmate records does have the ability to mark records as confidential and to delete them; hard-copy records are the concern. If expungement of convictions includes prison records, this would create a significant workload on DOC's record offices within the institutions and at the probation and parole offices. There is also a concern for tracking previous medical, mental health, substance abuse and education records. Fiscal impact due to passage of this proposal is Unknown per each year.

Oversight assumes Section 488.650, RSMo, allows a surcharge of \$100 on all petitions for expungement filed under Section 610.140. Moneys collected from this surcharge shall be payable to the General Revenue Fund. Therefore, Oversight will reflect costs to the Office of the State Courts Administrator, Department of Corrections and the Missouri Highway Patrol, as well as additional proceeds from this \$100 surcharge in the General Revenue Fund. Oversight will assume the \$100 surcharge will cover the anticipated costs of the Office of the State Courts Administrator, Department of Corrections, and the Missouri Highway Patrol.

Officials from the **Attorney General's Office (AGO)** state the proposal expands the list of criminal offenses which may be expunged. If the AGO is named as a defendant in an expungement proceeding, and expungement is ordered, the AGO has to identify, locate, and destroy its relevant records. The AGO assumes the cost of this proposal can be absorbed with existing resources, but may seek additional appropriations if the quantity of records it is required to expunge increases significantly.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a fiscal impact on their agency. 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.

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 failure to report the loss or theft of a firearm for a second or subsequent time would become a new A misdemeanor.

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

ASSUMPTION (continued)

appropriations to provide effective representation in all cases where the right to counsel attaches.

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

Officials from the **Missouri Department of Conservation (MDC)** estimates the proposed legislation would have a negative fiscal impact on MDC funds of less than \$100,000 annually.

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

According to officials from the **Office of the Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS 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 the SOS for Administrative Rules is less than \$2,500. The SOS 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Joint Committee on Administrative Rules** state this legislation is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Springfield Police Department** assume the proposal would not fiscally impact their agency.

Officials from the St. Louis Metropolitan Police Department, St. Louis County Police Department and the St. Charles Police Department did not respond to our request for fiscal impact.

ASSUMPTION (continued)

Section 610.140, RSMo, which currently allows the expungement of criminal records for several offenses, adds drug offenses, prostitution, and criminal nonsupport. This section was Truly Agreed to and Finally Passed in HB 1647 in 2012. **Oversight** inquired with the Office of the State Courts Administrator, the Department of Corrections, and the Missouri Highway Patrol regarding how many such expungement requests have been processed since August 28, 2012. We were not able to get such information, and therefore, are unable to reasonably estimate the number of additional expungement requests will be processed because of the changes in this proposal.

Section 488.650, RSMo, also passed with HB 1647 in 2012, states "there shall be assessed as costs a surcharge in the amount of one hundred dollars on all petitions for expungement filed under the provisions of section 610.140." Also, "moneys collected from this surcharge shall be payable to the general revenue fund." Therefore, Oversight will assume that all expungement requests will be accompanied with the \$100 surcharge, and this would cover the state costs (CTS, DOC, and MHP).

Section 650.605 - Firearms recovery pilot program:

The **Missouri Highway Patrol** assumes that this would be handled by the Director's Office within DPS. And although the Patrol may be involved with firearms that are surrendered, the Patrol believes this impact will be minimal and can be absorbed.

Officials from the **Department of Public Safety - Office of the Director** assume they would be able to absorb the costs for this legislation. The Office of the Director is responsible for the gun buyback pilot program; however, the Missouri Highway Patrol would be responsible for the guns turned in.

Oversight will reflect an annual \$300,000 appropriation from the General Revenue Fund to the new Firearms Recovery Fund, and these funds being distributed to local police and sheriffs departments as grants.

This proposal could increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE			
<u>Income</u> - Office of the State Courts Administrator - \$100 surcharge on each expungement (488.650 & 610.140)	Unknown	Unknown	Unknown
<u>Costs</u> - Office of the State Courts Administrator - expungements (610.140)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> - Department of Corrections - to manually expunge records (610.140)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Costs</u> - Missouri Highway Patrol - expungement of records (610.140)	(Unknown)	(Unknown)	(Unknown)
<u>Transfer Out</u> - Department of Public Safety - annual appropriation to the new Firearms Recovery Fund (650.605)	<u>(\$300,000)</u>	<u>(\$300,000)</u>	<u>(\$300,000)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$300,000)</u>	<u>(\$300,000)</u>	<u>(\$300,000)</u>
FIREARMS RECOVERY FUND			
<u>Transfer In</u> - from General Revenue	\$300,000	\$300,000	\$300,000
<u>Costs</u> - Department of Public Safety - grants in the form of gift certificates to local political subdivisions for their gun buyback program	<u>(\$300,000)</u>	<u>(\$300,000)</u>	<u>(\$300,000)</u>
ESTIMATED NET EFFECT TO THE FIREARMS RECOVERY FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
LOCAL POLITICAL SUBDIVISIONS			
<u>Income</u> - Police Departments and Sheriffs' Departments - Grants to distribute for the gun buyback program	\$300,000	\$300,000	\$300,000
<u>Costs</u> - Police Departments and Sheriffs' Departments - utilization of gift certificates to buy back guns	(<u>\$300,000</u>)	(<u>\$300,000</u>)	(<u>\$300,000</u>)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<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

EXPUNGEMENT OF CERTAIN CRIMINAL RECORDS - 610.140

Under current law, a person may petition for expungement of records relating to certain criminal offenses by filing a petition in the court in which the person was found guilty of the offense.

This act expands the list of offenses that are eligible for expungement to include prostitution, misdemeanor or felony drug crimes not involving weapons, and misdemeanor or felony offenses of criminal nonsupport.

GUN BUYBACK PROGRAMS - 650.605

This part of the proposal establishes a firearms recovery pilot program. Under the program to be implemented by the Department of Public Safety, grants will be distributed to law enforcement agencies to support their participation in programs in which individuals are given gift certificates to grocery stores in exchange for firearms. The department is granted rulemaking authority for the implementation of the pilot program.

RAS:LR:OD

FISCAL DESCRIPTION (continued)

The Firearms Recovery Fund is created under this act. The General Assembly must appropriate \$300,000 to the fund during the 2015, 2016, and 2017 fiscal years.

This act requires all firearms surrendered to a participating law enforcement agency be sent to the Department of Public Safety unless the firearm is stolen or needed as evidence. Firearms may be distributed to the Department of Conservation for training purposes.

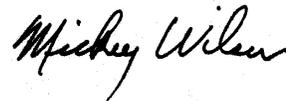
This act provides immunity from prosecution for unlawfully possessing weapons and unlawfully carrying a concealed weapon to any person who is on an immediate, direct route to the firearms recovery program site.

The provisions of this act expire on August 28, 2018.

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
Office of the Secretary of State
Joint Committee on Administrative Rules
Office of the State Treasurer
Missouri Department of Conservation
Attorney General's Office
Springfield Police Department



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