

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0777-07
Bill No.: Perfected SS #2 for SCS for SB 194
Subject: Crimes and Punishment; Aircraft and Airports; Department of Corrections; Prisons and Jails; Department of Mental Health
Type: Original
Date: February 28, 2019

Bill Summary: This proposal creates offenses relating to the unlawful use of an unmanned aircraft.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

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ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§217.850 and 632.460 - Unmanned aircraft near a correctional center

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crimes relating to the unlawful use of an unmanned aircraft near a correctional center or a mental health hospital. These new crimes range from a new class D felony to a class B felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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 where the right to counsel attaches.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing appropriation and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. 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.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state §217.850.5 requires the department to place (22) 11" x 14" warning signs at each institution. These signs will be purchased from Missouri Vocational Enterprises (MVE) at a cost of \$65 each for a total cost of \$1,430 (\$65 x 22). The DOC will absorb these costs; therefore, the DOC anticipates no fiscal impact.

Oversight notes this proposal creates an offense of unlawful use of unmanned aircraft near a correctional center. In section 217.010, 'correctional center' is defined as "any premises or institution where incarceration, evaluation, care, treatment, or rehabilitation is provided to persons who are under the department's authority." Oversight notes this may inadvertently include persons under the authority of DOC's Probation and Parole Division that are not in prison and may be in premises receiving an evaluation, care, or treatment (such as a doctor's office or clinic), which could create an overly broad scope for this new offense. The **DOC** states their response above is based on the interpretation of the statutory definition of a correctional center as a DOC operated facility for the housing of incarcerated offenders. Oversight will defer to DOC's interpretation and utilize their no impact response.

Oversight notes that the **Department of Mental Health, Department of Public Safety - Missouri State Highway Patrol, Department of Transportation and Office of State Courts Administrator** have each stated the proposal would not have a direct fiscal impact on their respective organizations.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
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GENERAL REVENUE FUND

Costs - SPD (§217.850)

Salaries, fringe benefits, and equipment and expense	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
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ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND

<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<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

This act creates the offenses of unlawful use of an unmanned aircraft near a correctional center and unlawful use of an unmanned aircraft near a mental health hospital. These offenses are committed if someone purposely operates an unmanned aircraft within a vertical distance of 300 feet of the correctional center or mental health hospital or a horizontal distance of the property line of the correctional center or mental health hospital. These offenses are also committed if a person purposely uses an unmanned aircraft to deliver a controlled substance or object that may be used to harm an offender or patient or harm an employee of a correctional center or mental health hospital.

The term "correctional center" is defined to include all state correctional centers, private jails, and local jails. Additionally, "mental health hospital" is defined to include any facility operated by the Department of Mental Health to provide inpatient evaluation, treatment, or care to persons suffering from a mental disorder, mental illness, or mental abnormality.

This act shall not apply to certain individuals acting in the course their of their official duties or to public utilities or rural electric cooperatives under certain circumstances, as is described in this act.

Under this act, every correctional center and mental health hospital shall post an eleven by fourteen inch sign warning of the provisions of this act.

Violations of the act shall be punished as a Class B felony if the person operating the unmanned aircraft was delivering an article that may be used to harm an offender or patient or harm an employee of the correctional center or mental health hospital. If the use of the unmanned aircraft was to facilitate an escape from the correctional center or mental health hospital, then it shall be punished as a Class C felony. Finally, if the person operating the unmanned aircraft was delivering a controlled substance, then it shall be punished as a Class D felony.

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FISCAL DESCRIPTION (continued)

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 Corrections
Department of Mental Health
Department of Public Safety -
 Missouri State Highway Patrol
Department of Transportation
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office



Kyle Rieman
Director
February 28, 2019

Ross Strope
Assistant Director
February 28, 2019