

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4343-02
Bill No.: SB 812
Subject: Victims of Crime; Sexual Offenses; Counseling; Crime and Punishment; Criminal Procedure; Courts; Department of Health and Senior Services; Department of Public Safety; Law Enforcement Officers and Agencies; Liability
Type: Original
Date: February 18, 2020

Bill Summary: This proposal establishes the “Sexual Assault Survivors’ Bill of Rights” and the “Missouri Right of Victims of Sexual Assault Task Force.”

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(Up to \$111,345)	(Up to \$121,279)	(\$105,370)
Total Estimated Net Effect on General Revenue	(Up to \$111,345)	(Up to \$121,279)	(\$105,370)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on Other 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 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

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 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§595.201 and 595.202 - Sexual Assault Survivors' Bill of Rights and Missouri Right of Victims of Sexual Assault Task Force

Officials from the **Department of Public Safety - Office of the Director (DPS)** state the Department of Public Safety is required to hold five meetings per year of the ten members as described in the legislation.

Based on administrative support currently provided for similar boards and claims processing, the department would need an additional full-time Processing Technician II at a salary of \$32,647. In addition, it is anticipated there will be costs of the reimbursable expenses incurred by the task force members. It is estimated the ten-member task force would incur the following expenses which are based on the meal per diem and CONUS rates for Jefferson City:

Breakfast and lunch (\$16/day x 5 meetings)	\$ 800
Mileage (Average of 60 miles/person x \$0.43/mile x 5 meetings)	\$1,290
2 Nights Lodging (Jefferson City Conus rate of \$96/night x 5 meetings)	\$9,600
Development, printing, publication and distribution costs x 5 meetings	\$5,000
Staff travel	\$ 500

Per 595.202.6, the task force shall expire on December 31, 2021.

Oversight notes the legislation does not state the number of meetings the Missouri Right to Victims of Sexual Assault Task Force is required to hold during the year. Oversight assumes DPS has sufficient staff to handle any increase in workload required under the provisions of this proposal. Oversight will assume the 10 members may incur costs of (Up to \$17,190) annually. Oversight will assume this cost will be paid from General Revenue.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** state one FTE can handle approximately 240 cases per year. With more than 600 sexual assault cases per year and thousands in a backlog, the lab will need one extra FTE to handle the calls and communications.

Oversight does not have any information contrary to that provided by MHP. Therefore, Oversight will reflect MHP's impact for fiscal note purposes to the General Revenue Fund.

ASSUMPTION (continued)

Officials from the **Office of Attorney General (AGO)** assume any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from the **State Public Defender's Office (SPD)** state to the extent this bill may cause victims to not want to give interviews to the defense, this could make it harder to investigate sex crimes.

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

Oversight notes the **Department of Health and Senior Services Department of Social Services Office of State Courts Administrator Springfield Police Department St. Louis County Department of Justice Services** have each stated the proposal would not have a direct fiscal impact on their organizations.

Officials from the **University of Missouri Health Care** state the proposed legislation, as written, should not create a negative impact.

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

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other hospitals and police and sheriff's departments were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE FUND			
<u>Cost - MHP (§§595.201 and 595.202)</u>			
Increased number of sexual assault cases			
Personal Services	(\$38,380)	(\$46,517)	(\$46,982)
Fringe Benefits	(\$34,266)	(\$41,530)	(\$41,946)
Lab Supplies, training, etc.	(\$15,000)	(\$15,375)	(\$15,759)
Equipment and Expense	(\$6,509)	(\$667)	(\$683)
<u>Total Cost - MHP</u>	<u>(\$94,155)</u>	<u>(\$104,089)</u>	<u>(\$105,370)</u>
FTE Change - MHP	1 FTE	1 FTE	1 FTE

<u>Cost - DPS (§§595.201 and 595.202)</u>			
Expenses of the 10 members of the Missouri Right of Victims of Sexual Assault Task Force			
	<u>(Up to \$17,190)</u>	<u>(Up to \$17,190)</u>	<u>\$0</u>

ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Up to \$111,345)</u>	<u>(Up to \$121,279)</u>	<u>(\$105,370)</u>
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Estimated Net FTE Change for the General Revenue Fund	1 FTE	1 FTE	1 FTE
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<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<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 establishes the "Sexual Assault Survivors' Bill of Rights".

FISCAL DESCRIPTION (continued)

SEXUAL ASSAULT SURVIVOR RIGHTS (SECTION 595.201.2)

Under this act, certain rights are provided for survivors of sexual assault during any medical evidentiary or physical examination and during any interview by a law enforcement official, prosecuting attorney, or defense attorney. The following rights are afforded to survivors of sexual assault and witnesses of sexual assault crimes:

- Survivors have the right to consult with a sexual assault counselor during any medical evidentiary or physical examination and also have a support person with them;
- Survivors have the right to consult with a sexual assault counselor during any interview with a law enforcement official, prosecuting attorney, or defense attorney and also have a support person with them;
- Communications between a survivor and a sexual assault counselor are confidential and privileged;
- Survivors' waivers of the right to a sexual assault counselor is privileged and is not admissible into evidence unless the survivor consents;
- Survivors shall not be charged directly or indirectly for the medical evidentiary examination portion of the examination - evidentiary collection kits shall be purchased, subject to appropriation, by the Department of Public Safety;
- Medical providers must inform survivors of their rights before commencing a medical evidentiary or physical examination;
- Law enforcement officials, prosecuting attorneys, or defense attorneys must inform survivors of their rights before commencing a medical evidentiary or physical examination;
- Law enforcement officials, prosecuting attorneys, or defense attorneys cannot discourage a survivor from receiving a medical evidentiary or physical examination;
- Survivors retain the right to have counsel present during all stages of any medical examination, interview, investigation, or other interactions with the legal or criminal justice systems in the state;
- Survivors have the right to prompt analysis of sexual assault forensic evidence through a secure and confidential message in writing from the crime lab;

FISCAL DESCRIPTION (continued)

- A defendant has no standing to object to any failure to comply to provisions of this act by a survivor;
- Failure of a law enforcement agency to take possession of any sexual assault forensic evidence or to submit evidence within the proscribed time period does not preclude the law enforcement agency from later submitting the evidence;
- No sexual assault forensic evidence shall be used to prosecute a survivor for any misdemeanor crime, however, sexual assault forensic evidence shall be admissible in any criminal or civil proceeding against the defendant;
- A law enforcement officer or medical provider must provide survivors with a document developed by the Department of Public Safety that explains the rights of survivors under this act;
- A law enforcement official, upon request from a survivor, must furnish within 14 days an unaltered copy of all law enforcement reports concerning the sexual assault at no cost to the survivor;
- A prosecuting attorney, upon request from a survivor, must provide timely notices of any pretrial or final dispositions of the case, location of the convicted defendant, and the convicted defendant's information on a sex offender registry, if any;
- Survivors have the right to be reasonably protected from the defendant and persons acting on behalf of the defendant in either a civil or criminal case relating to the sexual assault;
- Survivors have the right to be free from intimidation, harassment, and abuse;
- Survivors shall not be required to submit to a polygraph examination as a prerequisite to filing a pleading or participating in proceedings; and
- Survivors have the right to be heard through survivor impact statements at any proceeding where a right of the survivor is at issue.

RIGHT OF ACTION (SECTION 595.201.3)

Each person, corporation, agency, officer, or employee who has a responsibility to survivors under this act must make reasonable efforts to be informed about these responsibilities. Any failure to make such efforts, or any intentional violation of the rights proscribed in this act, shall be a tortious act.

FISCAL DESCRIPTION (continued)

The Attorney General shall bring an action against any person, corporation, agency, officer, or employee who has failed to make reasonable efforts or intentionally violated any of the provisions under this act in the name and on behalf of an injured party. However, the Attorney General is required to provide notice, before bringing an action, to any person against whom such an action is sought. The person shall have 5 business days to reply in writing with an affirmative defense.

A person, agency, or organization providing services to survivors under this act shall not be liable for civil damages if the person, agency, or organization in good faith cannot comply with the provisions of this act because of lack of resources or funding.

The right of action authorized under this act shall not supercede, alter, or repeal any other law under which the Attorney General is authorized to take any action or conduct any inquiry.

MISSOURI RIGHTS OF VICTIMS OF SEXUAL ASSAULT TASK FORCE (SECTION 595.202)

This act creates the "Missouri Rights of Victims of Sexual Assault Task Force" to consist of membership as set forth in the act.

The task force shall make certain recommendations as provided in the act. The task force shall collect data regarding sexual assault reporting, arrest, prosecution rates, access to sexual assault victims services, and any other important data, as well as collect feedback from stakeholders, practitioners, and leadership throughout the state and local law enforcement, victim services, forensic science practitioners, and health care communities.

The task force shall submit a report on its findings no later than December 31, 2021. The task force shall expire on December 31, 2021.

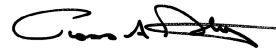
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Health and Senior Services
Department of Public Safety
Department of Social Services
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
Springfield Police Department
St. Louis County Department of Justice Services
University of Missouri Health Care



Julie Morff
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February 18, 2020



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February 18, 2020