

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1391S.02I
Bill No.: SB 336
Subject: Attorney General; Consumer Protection; Crimes and Punishment; Internet and E-Mail; Liability
Type: Original
Date: February 23, 2021

Bill Summary: This proposal requires internet service providers to authenticate access to obscene websites and provide subscribers the ability to create an authentication to access such websites.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	Up to (\$350,482)	Up to (\$372,777)	Up to (\$376,634)
Total Estimated Net Effect on General Revenue	Up to (\$350,482)	Up to (\$372,777)	Up to (\$376,634)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	Up to 5 FTE	Up to 5 FTE	Up to 5 FTE
Total Estimated Net Effect on FTE	Up to 5 FTE	Up to 5 FTE	Up to 5 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Attorney General's Office (AGO)** assume a need for three (3) FTE Consumer Service Operators (each at \$31,640 annually) and two (2) FTE Assistant Attorneys General I (each at \$50,470 annually) due to AGO's responsibilities arising from 407.1600.11.

The AGO assume a cost of approximately \$375,000 annually from this proposal.

Oversight does not have information to the contrary; however Oversight is not certain of the amount of involvement for the AGO resulting from this proposal. Therefore, Oversight will reflect the estimates as provided by the AGO but assume the costs (need for 5 additional FTE) may be lower than AGO's estimate and reflect the costs as "up to".

For the purpose of the proposed legislation, and as a result of excessive caseloads, the **Missouri State Public Defender (SPD)** cannot assume existing staff will be able to provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime(s) of providing internet authentication to a minor in violation of Section 407.1600, RSMO, a class A misdemeanor. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards. While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD 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 SPD for fiscal note purposes.

Officials from the **Missouri Highway Patrol**, the **Office of the State Courts Administrator** and the **Department of Corrections** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Cost - AGO</u>	Up to...	Up to...	Up to...
Salaries (5 FTE)	(\$163,217)	(\$197,819)	(\$199,797)
Fringe Benefits	(\$104,836)	(\$126,464)	(\$127,131)
Equipment and Expense	(\$82,429)	(\$48,494)	(\$49,706)
Total Cost - AGO	<u>Up to (\$350,482)</u>	<u>Up to (\$372,777)</u>	<u>Up to (\$376,634)</u>
FTE Change - AGO	Up to 5 FTE	Up to 5 FTE	Up to 5 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>Up to (\$350,482)</u>	<u>Up to (\$372,777)</u>	<u>Up to (\$376,634)</u>
Estimated Net FTE Change on the General Revenue Fund	Up to 5 FTE	Up to 5 FTE	Up to 5 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<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

Under this act, an internet service provider shall authenticate access to obscene websites and redirect an obscene website to a web page that provides the subscriber, as such term is defined in the act, the ability to enter an authentication in order to gain access to the obscene website. A

mechanism to create an authentication shall be provided to subscribers that are 18 years of age or older. The authentication shall be required at each attempt to access an obscene website and shall be changed every 3 months.

An internet service provider shall provide information to the provider's subscribers that includes a brief description of the provisions of this act requiring an authentication to access obscene content, the procedure for creating, recovering, and updating the authentication method requiring multi-factor authentication for the account holder, and the penalty for individuals who share the authentication with minors which results in the exposure of minors to pornographic material.

An internet service provider is not liable for any penalty under the act if the provider makes a good faith effort to apply a generally accepted and commercially reasonable method of authenticating obscene websites and such technology has the ability to discover and authenticate new obscene websites and fulfills the requirements of the act.

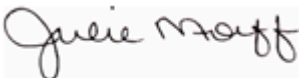
A subscriber that knowingly provides a minor with his or her authentication to access an obscene website shall be guilty of a Class A misdemeanor.

The Attorney General may seek injunctive and other equitable relief against an internet service provider that fails to comply with the provisions of this act.

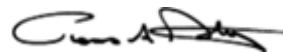
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Office of the State Public Defender
Office of the State Courts Administrator
Department of Public Safety - Missouri Highway Patrol



Julie Morff
Director
February 23, 2021



Ross Strope
Assistant Director
February 23, 2021