

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1042-01
Bill No.: SB 246
Subject: Crimes and Punishment; Criminal Procedure; Bonds - Surety; Economic
Development Department; Licenses - Professional; Insurance Department; Law
Enforcement Officers and Agents
Type: Original
Date: February 6, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Insurance Dedicated	(\$25,205)	\$3,968	\$3,050
Board of Licensed Private Investigator Examiners	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(\$125,205 TO \$25,205)	(\$96,032) TO \$3,968	(\$96,950) TO \$3,050

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of **State Public Defender**, the **Department of Revenue**, the **Department of Economic Development - Division of Professional Registration**, and the **Office of Prosecution Services** assume this proposal would not fiscally impact their agencies.

Office of State Courts Administrator (CTS) officials assume the proposal would provide for changes in the licensing of bail bondsmen and for the licensing of private investigators. CTS states that depending on how the proposal is implemented there could be an impact on the number of civil and criminal trials. CTS states that if there is a significant increase in the number of cases going to trial there would be a corresponding increase in state and local costs for the judiciary.

Officials from the **Office of Secretary of State (SOS)** state this proposal creates the Board of Licensed Private Investigators Examiners within the Department of Public Safety. SOS states the new board would promulgate rules to implement this proposal. SOS states that based on experience with other divisions, the rules, regulations, and forms issued by the Board of Licensed Private Investigators Examiners could require as many as 30 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register in the Code because cost statements, fiscal notes, and the like are not repeated in Code. These costs are estimated. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations is \$27. The actual cost could be more or less than the numbers given. The fiscal impact of this proposal in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn.

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. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Department of Insurance (INS) officials state the department would require one Insurance Licensing Technician I and associated E&E to administer requirements of licensing the Recovery Agents and review and approve training courses submitted by providers. INS states the licensing technician position would also assist in administer the additional requirements of licensing bailbond agents. INS anticipates 400 recovery agents at \$100 licensing and renewal fee for projected revenues of \$40,000 annually. INS states the department would require contract program costs of \$29,000 to make modifications to the licensing system for licensing Recovery Agents.

ASSUMPTION (continued)

Department of Corrections (DOC) officials state that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in this proposal. An increase in commitments would depend on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons were sentenced to the custody of the DOC due to the provisions of this proposal, DOC would incur a corresponding increase in operational costs either through incarceration (average \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$2.47 per offender, per day). Supervision by the DOC through probation or incarceration would result in some additional costs, but DOC officials assume that the impact would be \$0 or a minimal amount that could be absorbed with existing resources. **Oversight** assumes this proposal would have minimal impact on the prison or probation populations. The exact cost cannot be determined, but is expected to be less than \$100,000 annually.

Officials from the **Office of Attorney General (AGO)** did not respond to our fiscal impact request. However, in response to a similar proposal last session the AGO assumed that the costs of handling any licensing matter could be absorbed with current resources.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** did not respond to our fiscal impact request. However, in response to a similar request last session MHP assumed no fiscal impact.

Department of Public Safety (DPS) officials did not respond to our fiscal impact request. However, in response to a similar proposal last session DPS stated there is no clear-cut source for how many private security providers there are in the state. Based on information received from varying sources within the private security field, DPS estimated there are 1,000 companies and 30,000 individuals that would be affected by this proposal.

To implement the proposal, DPS officials assumed they would need 16 additional staff. These staff included one Director (1 FTE at \$50,000 per year) for the overall management of the program, one Educational Coordinator (1 FTE at \$30,000 per year) to oversee the training of the licensees, one Investigator Supervisor (1 FTE at \$36,000 per year) to manage investigations, three Investigators (3 FTE, each at \$30,000 per year) to conduct investigations of complaints, one License Unit Supervisor (1 FTE at \$36,000 per year) to manage the licensing of security providers, one Certified Public Accountant (1 FTE at \$36,000 per year) to supervise the management of licensing fees, two Accountant Is (2 FTE, each at \$30,000 per year) to manage licensing fees and six Clerk Typist IIIs (6 FTE, each at \$19,294.75 per year) to provide support to the program. DPS has requested associated expense and equipment, including four new vehicles, meeting expenses for the Board of Private Investigator Examiners and office space for the new FTE, resulting in total annual costs of approximately \$750,000 per year.

ASSUMPTION (continued)

DPS officials did not address the revenue resulting from licensure fees. **Oversight** assumes fees would be set to cover the costs of regulation, resulting in a net fiscal impact of \$0.

Oversight assumes that implementation of the proposal would create a large workload during the initial approval and application process, based on the number of licensees. However, after the process is in place, the ongoing licensing process of the private investigators should be considerably less. Oversight has adjusted the staffing needs to remain consistent with previous years' proposal. Due to the larger estimate for potential licensees, Oversight included the six Clerk Typist III positions, but did not include the Certified Public Accountant and Accountant I positions. Additionally, Oversight adjusted expenses to include temporary clerical assistance during the initial licensing process, as well as during the annual renewal process. Also, Oversight assumed the additional staff would be located in existing facilities and has not included rental costs in the fiscal impact specifications below. Finally, Oversight assumed the Investigator and the Investigator Supervisor would need a vehicle and therefore, has adjusted costs to include only two vehicles. Adjusted costs for the DPS would be approximately \$500,000, but would be offset by the licensure fees.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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GENERAL REVENUE FUND

Costs - Department of Corrections

Incarceration/probation costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
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**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>
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INSURANCE DEDICATED FUND

Income - Department of Insurance

License fees/renewals	\$40,000	\$40,000	\$40,000
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Costs - Department of Insurance

Personal service (1 FTE)	(\$19,803)	(\$24,358)	(\$24,967)
Fringe benefits	(\$6,600)	(\$8,119)	(\$8,322)
Expense and equipment	(\$38,802)	(\$3,555)	(\$3,661)
Total <u>Costs</u> - Department of Insurance	<u>(\$65,205)</u>	<u>(\$36,032)</u>	<u>(\$36,950)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>(\$25,205)</u>	<u>\$3,968</u>	<u>\$3,050</u>

**BOARD OF LICENSED PRIVATE
INVESTIGATOR EXAMINERS
FUND**

<u>Income - Department of Public Safety</u>			
License fees/renewals	\$501,487	\$502,646	\$515,309
<u>Costs - Department of Public Safety</u>			
Personal services (11 FTE)	(\$254,344)	(\$312,844)	(\$320,666)
Fringe benefits	(\$84,773)	(\$104,271)	(\$106,878)
Expense and equipment	<u>\$162,371</u>	<u>(\$85,531)</u>	<u>(\$88,098)</u>
Total <u>Costs</u> - Department of Public Safety	<u>(\$501,487)</u>	<u>(\$502,646)</u>	<u>(\$515,309)</u>

ESTIMATED NET EFFECT ON BOARD OF LICENSED PRIVATE INVESTIGATOR EXAMINERS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Bail fugitive recovery agent companies which are small businesses would be impacted by training, licensing fees, and additional bonding requirements outlined in this proposal.

DESCRIPTION

This proposal contains new licensing provisions for private investigators, bail bondsmen and

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DESCRIPTION (continued)

surety recovery agents (bounty hunters).

Private Investigators

Creates Board of Licensed Private Investigator Examiners. No person would engage in the licensed private investigator business as an individual or agency without being licensed. The proposal lists exemptions, including investigators employed by and under the supervision of a licensed attorney while in the scope of employment, and those who do not represent themselves to be licensed investigators. Requirements for application for licensure are set forth. The Board may require training and examination for licensure, and would conduct complete background investigation of applicants. Applicants would demonstrate one quarter million dollars in business general liability insurance. The Board may review applicants for reciprocity. The Board may deny application for licensure for listed reasons, including conviction or plea of guilty or nolo contendere in criminal prosecution for any act of violence or for an offense reasonably related to qualifications or duties of any profession licensed under Chapter 324, RSMo. Applications would be accompanied by a fee. A license would be only valid for the individual; an agency license would be applied for separately by a licensed private investigator. The Board would determine the form of the license, with certain requirements, and would issue a pocket card to each licensee. A license would expire two years after date of issuance, and the proposal establishes a renewal process. A licensee would be legally responsible for the good conduct and acts of each of the licensee's agents or employees while engaged in the business of the licensee which violate this proposal. A licensee may divulge to the Board, any law enforcement officer or prosecuting attorney, or the licensee's own representative, any information regarding a criminal offense, or instruct his client to do so if the client is the victim. Other information would not be divulged unless the licensee is legally obligated to do so. The proposal would prohibit a licensee from making false reports, presenting himself as a state or federal officer, or manufacturing false evidence, and requires certain identifying records to be filed with the Board. Advertising would include listing of the address of business. The proposal lists grounds for discipline of license, including revocation, and the procedure before the Administrative Hearing Commission. Each licensed private investigator or investigator agency would maintain complete record of business transactions, which may be confidentially examined by authority of the Board under certain conditions. The proposal would grant the Board subpoena powers for examination of documents and persons. The Department of Public Safety would establish guidelines to permit a licensed private investigator to carry a concealed firearm. The proposal provides qualifications of persons certified to train licensed private investigators; trainers would be certified by the Board.

Professional Bail Bondsman

No person would engage in the bail bond business without being licensed by the Department of Insurance. Both general bail bond agents and bail bondsmen or surety agents would be licensed. General bail bond agents would act only through a licensed bail bond agent. A bail bond agent

DESCRIPTION (continued)

must hold an appointment by a general bail bond agent, and must have a numbered power of attorney. The power of attorney for the bail bond agent would be included with the application. Appearance bonds issued by the bail bond agent would not exceed the amount specified in the power of attorney. Each applicant must demonstrate that he or she has obtained a bond or insurance policy of at least \$300,000 for damage to persons or property caused by the applicant. Each applicant for a general bail bond agent must demonstrate liquid assets and assignment to the state in a specified amount based on the number of bail bond agents employed. No licensee may make deals with listed officials or attorneys in order to reduce the amount of a bond. A licensee may not accept anything from a principal other than the premium or collateral security. The proposal lists the grounds for discipline of a license, as well as the procedure for such an action before the Administration Hearing Commission. The Department of Insurance would investigate the bail bond business transacted in the state, including all violations of the bail bond law.

Surety Recovery Agent Licensure

The proposal would define a surety recovery agent as any person who tracks down, captures and surrenders custody of a fugitive to the court. All surety recovery agents would be licensed by the Department of Insurance, and possess a one million dollar bond or insurance policy. The Department would determine the sufficiency of qualifications of applicants, who must be at least 21 years of age and have completed an approved surety recovery course with at least 40 hours of training. The proposal provides for reciprocal licensing of surety recovery agents from other jurisdictions. The proposal specifies the grounds for which the Department may seek discipline of a licensee before the Administrative Hearing Commission. A surety recovery agent would inform local law enforcement in the city or county where the agent is planning on entering a residence in order to capture a fugitive. Local law enforcement may accompany the surety recovery agent. Failure to report to local law enforcement is a Class A misdemeanor for the first offense, and a Class D felony for any subsequent violations. A surety recovery agent with probable cause to believe a person has failed to appear in court or otherwise breached the terms of an bond may use all lawful means to arrest the person, including detaining the subject for up to 72 hours, transporting the subject to another county or state and entering upon private property in a reasonable manner. Engaging in fugitive recovery without a valid license is a Class D felony. In addition, anyone engaging in fugitive recovery who wrongfully causes damage to property or person would be liable for such damages, and may be assessed punitive damages.

The act also provides that no person shall be certified or employed as a peace officer unless he or she is a resident of Missouri.

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

State Public Defender
Department of Revenue
Office of Prosecution Services
Office of State Courts Administrator
Department of Economic Development
Division of Professional Registration
Department of Insurance
Office of Secretary of State
Department of Public Safety

NOT RESPONDING: Office of Attorney General, Department of Public Safety - Missouri State Highway Patrol, and the Department of Public Safety

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "T".

Jeanne Jarrett, CPA
Director

February 6, 2001