

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0353-01
Bill No.: HB 100
Subject: Consumer Protection: Banks and Financial Institutions
Type: Original
Date: March 9, 2009

Bill Summary: Changes the laws regarding the release of personal information to unauthorized persons

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
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 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

The following agencies indicate this proposal will have no fiscal impact on their respective agencies or divisions: **Department of Public Safety - Office of the Director, Missouri Capitol Police, Missouri State Highway Patrol, Division of Fire Safety, State Emergency Management; Missouri Gaming Commission, Missouri Veterans Commission; State Tax Commission; Office of Administration - Administrative Hearing Commission, Division of Budget and Planning; Missouri Consolidated Health Care Plan; Missouri House of Representatives; Office of State Auditor; Department of Economic Development; Department of Social Services; Office of Secretary of State; Missouri Ethics Commission; Department of Revenue; Department of Conservation; Department of Insurance, Financial Institutions and Professional Registration; Department of Health and Senior Services; Department of Agriculture; Office of State Treasurer; Department of Natural Resources; MoDot and Patrol Employees' Retirement System; Department of Mental Health; and Missouri Senate.**

Officials from the **Office of State Courts Administrator** state this proposal will have no fiscal impact on the Courts.

Officials from the **Joint Committee on Public Employee Retirement** state the their review of this proposed legislation indicates that such legislation would not create a "substantial proposed change" in future plan benefits as defined in §105.660(5); therefore, an actuarial cost statement is not required.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state this proposal will have no fiscal impact on their agency; however, the Division of Employment Security pays unemployment benefits by direct deposit and debit card. DOLIR has contracted with a financial institution to perform these functions for the Division of Employment Security. This legislation may prevent the Division from obtaining information from the contractor financial institution regarding claimant's unemployment debit card accounts and the direct deposit of unemployment benefits into unemployment claimants' accounts in financial institutions. As a result, the state's unemployment insurance program could be negatively impacted.

Oversight assumes the necessary consent from claimants will be obtained during the application process and will assign no additional fiscal impact.

Officials from the **Office of Administration - Division of Purchasing and Materials**

ASSUMPTION (continued)

Management (DPMM) assume §407.1402 would require DPMM to develop bid language that would state a contractor that has computerized personal information data due to a contract with the State must disclose any breach of the security of their system following discovery or notification of the breach. Notification would have to be made to any resident of the state whose encrypted personal information was or is believed to have been acquired by an unauthorized person. Currently, DPMM has a contract that requires the contractor to immediately suspend contract performance and notify the contract administrator if there has been a breach of security, fraud, or misrepresentation in connection with the services being provided under the contract.

Oversight assumes costs to comply with this section could be absorbed with existing resources.

Officials from the **Department of Higher Education (DHE)** state their agency operates a student loan guaranty program that is treated as a “financial institution” by federal law. As such, the student loan program would have to comply with §§407.1400 - 1404. DHE assumes that implementing this proposal could require expenditures and possibly additional staff. DHE assumes that these expenses would be paid by non-general revenue sources. DHE further states that the federal Gramm-Leach-Bliley Act requires financial institutions to protect the confidentiality of consumers’ “non-public information” through a variety of measures.

Oversight assumes since the loan program is a “financial institution”, DHE would already be in compliance with this proposed legislation.

Officials from the **Department of Elementary and Secondary Education (DESE)** state there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year, unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Corrections (DOC)** state that, currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s)

ASSUMPTION (continued)

outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of the State Public Defender (SPD)** cannot assume existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of releasing personal information to unauthorized persons. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the cities of **West Plains, Centralia, and Cape Girardeau** and **St Louis County** and **Cass County** indicated no fiscal cost to their respective political subdivisions.

Officials from the **Springfield Police Department** stated this proposal would have no fiscal impact on their department.

Officials from the **Boone County Sheriff's Department** state there are costs associated with this proposal. An actual figure amount cannot be projected, but it is now, and will continue to be ongoing. Financial institutions currently charge fees to law enforcement agencies for documents prepared under subpoena. The amount charged by the financial institution is based on the volume of documents subpoenaed and the rate of pay for their employee(s) preparing them. Costs will fluctuate per investigation and annually according to the number of investigations requiring the department to subpoena such records. These are costs the department currently experiences anyway.

ASSUMPTION (continued)

Oversight assumes these are ongoing, current costs and no additional fiscal impact will be shown.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<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

The proposed legislation appears to have no fiscal impact.

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 Director
 Missouri Capitol Police
 Missouri State Highway Patrol
 Division of Fire Safety
 State Emergency Management
 Missouri Gaming Commission
 Missouri Veterans Commission
State Tax Commission
Office of Administration
 Administrative Hearing Commission
 Division of Budget and Planning
 Division of Purchasing and Materials Management
MoDOT and Patrol Employees' Retirement System
Department of Higher Education
Missouri Consolidated Health Care Plan
Missouri House of Representatives
Office of State Auditor
Department of Economic Development
Department of Social Services
Office of Secretary of State
Missouri Ethics Commission
Department of Revenue
Department of Conservation
Department of Insurance, Financial Institutions and Professional Registration
Department of Health and Senior Services
Department of Agriculture
Office of State Treasurer
Department of Natural Resources
Missouri Senate
Department of Labor and Industrial Relations
Office of State Courts Administrator
Joint Committee on Public Employee Retirement
Department of Mental Health
Department of Elementary and Secondary Education
Department of Corrections
Office of State Public Defender

SOURCES OF INFORMATION (continued)

L.R. No. 0353-01
Bill No. HB 100
Page 8 of 8
March 9, 2009

Cities

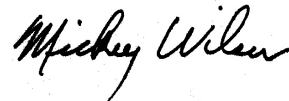
West Plains
Centralia
Cape Girardeau

Counties

St Louis County
Cass

Local Law Enforcement

Springfield Police Department
Boone County Sheriff's Department



Mickey Wilson, CPA
Director
March 9, 2009