

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1064-01  
Bill No.: HB 560  
Subject: Business and Commerce; Liability; State Employees  
Type: Original  
Date: March 30, 2009

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Bill Summary: The proposal requires persons reporting violations or suspected violations of law to provide certain information and penalizes persons habitually making false allegations against the same person or entity.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>       |                              |                               |                               |
|---|------------------------------|-------------------------------|-------------------------------|
| FUND AFFECTED   | FY 2010                      | FY 2011                       | FY 2012                       |
| General Revenue   | (\$99,670 to Unknown)        | (\$105,754 to Unknown)        | (\$108,928 to Unknown)        |
|   |                              |                               |                               |
| <b>Total Estimated Net Effect on General Revenue Fund</b> | <b>(\$99,670 to Unknown)</b> | <b>(\$105,754 to Unknown)</b> | <b>(\$108,928 to Unknown)</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>              |                  |                  |                  |
|---|------------------|------------------|------------------|
| FUND AFFECTED   | FY 2010          | FY 2011          | FY 2012          |
| Conservation  | (Unknown)        | (Unknown)        | (Unknown)        |
|   |                  |                  |                  |
| <b>Total Estimated Net Effect on <u>Other</u> State Funds</b> | <b>(Unknown)</b> | <b>(Unknown)</b> | <b>(Unknown)</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 12 pages.

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

| <b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b> |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                                      | <b>FY 2010</b> | <b>FY 2011</b> | <b>FY 2012</b> |
| General Revenue   | 2              | 2              | 2              |
|   |                |                |                |
| <b>Total Estimated Net Effect on FTE</b>                  | <b>2</b>       | <b>2</b>       | <b>2</b>       |

- 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).

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |                  |                  |                  |
|--|------------------|------------------|------------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2010</b>   | <b>FY 2011</b>   | <b>FY 2012</b>   |
| <b>Local Government</b>                    | <b>(Unknown)</b> | <b>(Unknown)</b> | <b>(Unknown)</b> |

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Department of Agriculture, Coordinating Board for Higher Education, Office of Administration – Administrative Hearing Commission, – Division of Budget and Planning, Department of Economic Development, Department of Transportation, Department of Insurance, Financial Institutions, and Professional Registration, Department of Mental Health, Department of Corrections, Department of Labor and Industrial Relations, Department of Revenue, Department of Public Safety – Director’s Office, – Missouri State Highway Patrol, Office of the Governor, Missouri Consolidated Health Care Plan, Office of the Lieutenant Governor, Missouri Ethics Commission, Missouri House of Representatives, Office of the State Auditor, Missouri Senate, Office of the State Treasurer, Boone County Sheriff’s Department, City of Centralia, City of Kansas City, and Cass County** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposal would have no measurable fiscal impact the Office of Prosecution Services or county prosecutors.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume 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.

ASSUMPTION (continued)

**Oversight** assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Department of Natural Resources (DNR)** assume under section 565.088, once an investigation into the report is complete, DNR would be required to inform the person reporting the information if that information was unfounded and state that if he or she makes another report on the same individual or business entity the complainant may be charged with a class C misdemeanor if that report is unfounded.

Section 565.088 of this proposal appears to prevent the department from accepting anonymous complaints. This proposal could discourage the public from making complaints. The language in Section 565.088.3 could be interpreted to mean that if someone makes a second complaint about a particular individual or business entity, and if the department investigates the complaint and finds no violation, then the complainant can be charged with a class C misdemeanor.

While the proposal does allow reporting of “suspected violations,” if a violation does not in fact exist the complainant could be subject to prosecution regardless of the activities that were the subject of the complaint. Aspects often considered objectionable of some operations occur that do not rise to the level of violations, although they may present legitimate concerns to neighbors or those in the vicinity. Missouri citizens may not file complaints for fear of prosecution.

This proposal would also increase the amount of time spent on each complaint, which could result in additional staff time. Section 565.088.3 would require DNR to contact each complainant after the investigation to inform them if the complaint was “unfounded.” A database to track each complainant would need to be developed and maintained. DNR would also have to develop a plan for initiating action against those persons found to have violated this statute.

ASSUMPTION (continued)

In calendar year 2008, DNR received 4,921 complaints. Of those, 1,841 were anonymous complaints. Approximately 4% of all complaints, both named complainants or anonymous, resulted in notices of violation being issued. Environmental problems identified by complaints allow DNR to respond promptly to incidents and minimize the damage and resulting costs needed to remedy the situations. If DNR was not made aware of these concerns until later because the complainant didn't wish to identify themselves, this could result in more extensive damage and higher costs to mitigate the problems.

The fiscal impact from this proposal is unknown, but could be significant.

Officials from the **Department of Health and Senior Services (DHSS)** assume the bill would require DHSS to inform reporters that giving "false information" may be a class C misdemeanor. It further requires DHSS to inform the reporter if a report was unfounded and that a second report on the same individual or business entity, if unfounded, may result in a class C misdemeanor charge. This could greatly deter reporting of abuse, neglect, and financial exploitation of the elderly; adults with disabilities; elderly in long-term care facilities; patients in health care facilities; and children in child care facilities, which are generally regarded as under reported. Since many people who would otherwise make a report will opt not to get involved if they cannot remain anonymous, the population intended to be protected could be at greater risk of abuse, neglect, and /or financial exploitation.

In FY 2008, the Division of Senior and Disability Services (DSDS) received 21,845 reports of abuse, neglect, and/or financial exploitation of seniors and adults with disabilities. Of those reports, investigations found that 26.7 percent were unsubstantiated.

- 21,845 reports x 26.7 percent (unsubstantiated reports) = 5,833 notifications required to reporters;
- 5,833 notifications / 260 workdays per year = 22 notifications per day including researching, tracking, referral, and follow-up;
- 22 notifications per day / 8 hours = 3 notifications per hour.

DSDS will require one FTE Health Program Representative II (at \$33,420 per year) to process notifications to reporters of "unfounded" reports, track reporters and the subjects of the reports; make referrals to prosecutors of individuals who have made two "unfounded" reports; provide training for mandated reporters including state employees; field questions from those who receive the notifications, as well as law enforcement officers and prosecutors; and provide follow-up on all of the incidents.

ASSUMPTION (continued)

One FTE Senior Office Support Assistant (Keyboarding) (at \$24,576 per year) will be required to produce notification and referral letters, perform data entry, and compile statistics.

IT costs are unknown at this time because an interface to verify the reporters' identities would have to be established and custom reports would need to be built to extract the required data from tracking systems.

DHSS estimates the total cost of the proposal to be more than approximately \$105,000 in FY 10 and more than approximately \$113,000 in subsequent years.

**Oversight** assumes the Department of Health and Senior Services would house the 2 FTE within existing facilities. Therefore, no rent or janitor/trash/utilities expenses are included in the fiscal note.

Officials from the **Department of Social Services – Division of Legal Services (DOS)** assume if the intent of the legislation is to prevent persons from being able to make anonymous reports of suspected violations of law, ordinances, or regulations to all governmental entities, this legislation can be expected to impact the Children's Division and the Child Abuse/Neglect Hotline.

The Children's Division employees will be required to request identifying information. They will be required to notify the person making the call that giving false information may be a class C misdemeanor. They will also be required to inform the person making the report if the information is unfounded and inform the person making the report that if he/she makes another report on the same individual or business entity the person may be charged with a class C misdemeanor if the subsequent report is unfounded. This can be reasonably expected to reduce the number of reports made to the CA/N hotline system because many individuals will be reluctant to make a report if they are required to disclose their identity. The exact reduction in the number of calls is not possible to ascertain. It can be expected, however, that the cost benefit gained from the reduction in the number of calls will probably be offset by an increase in the number of repeat incidents of child abuse and neglect which require that a child be brought into state care or which will require criminal prosecution.

ASSUMPTION (continued)

The language of the bill may reduce the number of reports of waste, fraud and abuse in the administration of public assistance programs. Individuals and business entities can be reasonably expected to be reluctant to make reports of suspected violation of laws, ordinances and regulations if they are informed that they may be subject to criminal prosecution if the information they reported is subsequently found to be false or unfounded. This will mean that there will be many cases in which the state may expend funds which it is not required to expend. It is not possible to estimate the fiscal impact of the number of cases which are not reported due to fear of criminal prosecution.

DOS assumes the fiscal impact to the operation of the Child Abuse/Neglect hotline is impossible to ascertain. DOS assumes the fiscal impact to the Division of Legal Services is Unknown but less than \$100,000.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **Office of the State Public Defender (SPD)** assume increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. 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 **City of West Plains** assume the proposal could have some positive fiscal impact on the city in reducing unfounded complaints.

ASSUMPTION (continued)

Officials from the **St. Louis County** assume the Division of Code Enforcement would incur administrative costs of an undetermined amount. The bill will require written records for every complaint. They would also be required to file a report with the individual who registers the complaint. In addition to the administrative costs, the proposal could also result in legal expenses defending their actions or inactions to either party.

St. Louis County assumes the Division of Neighborhood Services would incur costs of approximately \$50,000 over three years. They receive 1,629 complaints annually resulting in no violations. Officials assume \$16,000 annually in clerk labor to prepare and mail letters and \$700 annually in postage and supplies.

Officials from the **Springfield Police Department** responded to Oversight's request but issued no fiscal impact statement.

**Oversight** assumes local governmental entities statewide could experience a reduction in complaints as a result of the proposed legislation. Oversight also assumes local government would incur increased administrative costs and increased postage and supplies as a result of the proposed legislation. Oversight assumes the increased administrative costs and expenses would exceed any savings due to a reduction in the number of complaints. Therefore, Oversight assumes the fiscal impact to local government as an unknown cost.



| <u>FISCAL IMPACT - State Government</u>                 | FY 2010<br>(10 Mo.)                 | FY 2011                              | FY 2012                              |
|---|-------------------------------------|--------------------------------------|--------------------------------------|
| <b>GENERAL REVENUE FUND</b>                             |                                     |                                      |                                      |
| <u>Savings</u> – Department of Social Services          |                                     |                                      |                                      |
| Reduced reports to the Child Abuse/Neglect Hotline      | Unknown                             | Unknown                              | Unknown                              |
| <u>Costs</u> – Department of Natural Resources          |                                     |                                      |                                      |
| Administrative costs                                    | (Unknown)                           | (Unknown)                            | (Unknown)                            |
| <u>Costs</u> – Department of Health and Senior Services |                                     |                                      |                                      |
| Personal Service  | (\$49,780)                          | (\$61,528)                           | (\$63,374)                           |
| Fringe Benefits   | (\$24,208)                          | (\$29,921)                           | (\$30,819)                           |
| Equipment and Expense                                   | (\$25,682)                          | (\$14,305)                           | (\$14,735)                           |
| IT Interfaces & Reporting                               | <u>(Unknown)</u>                    | <u>(Unknown)</u>                     | <u>(Unknown)</u>                     |
| <u>Total Costs</u> – DHSS                               | (\$99,670 to Unknown)               | (\$105,754 to Unknown)               | (\$108,928 to Unknown)               |
| FTE Change – DHSS                                       | 2 FTE                               | 2 FTE                                | 2 FTE                                |
| <u>Costs</u> – Department of Social Services            |                                     |                                      |                                      |
| Increased children in state care                        | (Unknown)                           | (Unknown)                            | (Unknown)                            |
| Unreported occurrences of waste, fraud, and abuse       | <u>(Unknown)</u>                    | <u>(Unknown)</u>                     | <u>(Unknown)</u>                     |
| <u>Total Costs</u> – DOS                                | <u>(Unknown)</u>                    | <u>(Unknown)</u>                     | <u>(Unknown)</u>                     |
| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>     |                                     |                                      |                                      |
|   | <b><u>(\$99,670 to Unknown)</u></b> | <b><u>(\$105,754 to Unknown)</u></b> | <b><u>(\$108,928 to Unknown)</u></b> |
| Estimated Net FTE Change for General Revenue Fund       | 2 FTE                               | 2 FTE                                | 2 FTE                                |

| <u>FISCAL IMPACT - State Government</u><br>(continued)                         | FY 2010<br>(10 Mo.)     | FY 2011                 | FY 2012                 |
|--|-------------------------|-------------------------|-------------------------|
| <b>CONSERVATION FUND</b>   |                         |                         |                         |
| <u>Costs – Department of Conservation</u><br>Administrative costs              | <u>(Unknown)</u>        | <u>(Unknown)</u>        | <u>(Unknown)</u>        |
| <b>ESTIMATED NET EFFECT ON<br/>CONSERVATION FUND</b>                           | <b><u>(Unknown)</u></b> | <b><u>(Unknown)</u></b> | <b><u>(Unknown)</u></b> |
| <br>   |                         |                         |                         |
| <u>FISCAL IMPACT - Local Government</u>  | FY 2010<br>(10 Mo.)     | FY 2011                 | FY 2012                 |
| <b>LOCAL GOVERNMENT</b>  |                         |                         |                         |
| <u>Savings – Local Government</u><br>Reduced number of unfounded<br>complaints | Unknown                 | Unknown                 | Unknown                 |
| <u>Costs – Local Government</u><br>Administrative costs                        | <u>(Unknown)</u>        | <u>(Unknown)</u>        | <u>(Unknown)</u>        |
| Postage  | <u>(Unknown)</u>        | <u>(Unknown)</u>        | <u>(Unknown)</u>        |
| <u>Total Costs – Local Government</u>  | <u>(Unknown)</u>        | <u>(Unknown)</u>        | <u>(Unknown)</u>        |
| <b>ESTIMATED NET EFFECT ON<br/>LOCAL GOVERNMENT</b>                            | <b><u>(Unknown)</u></b> | <b><u>(Unknown)</u></b> | <b><u>(Unknown)</u></b> |

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 requires an individual or business entity receiving a report of any violation or suspected violation of a law, ordinance, or regulation against any individual or business entity to verify the identity of the person making the report by requesting his or her name, address, phone number, or other identifying information. The person must be informed that giving false information may result in a class C misdemeanor.

Once an investigation into the report is complete, the individual or business entity receiving the report must inform the person who made the report if it is unfounded and state that if another report on the same individual or business is made, the person may be charged with a class C misdemeanor if the second report is also determined to be unfounded.

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

Office of the Attorney General  
Department of Agriculture  
Coordinating Board for Higher Education  
Office of Administration

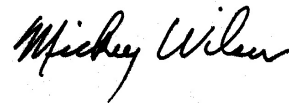
- Administrative Hearing Commission
- Division of Budget and Planning

Office of State Courts Administrator  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Transportation  
Department of Insurance, Financial Institutions, and Professional Registration  
Department of Mental Health  
Department of Natural Resources  
Department of Corrections  
Department of Health and Senior Services  
Department of Labor and Industrial Relations  
Department of Revenue  
Department of Social Services  
Department of Public Safety

- Director's Office
- Missouri State Highway Patrol

SOURCES OF INFORMATION (continued)

Office of the Governor  
Missouri Consolidated Health Care Plan  
Department of Conservation  
Office of the Lieutenant Governor  
Missouri Ethics Commission  
Missouri House of Representatives  
Office of Prosecution Services  
Office of the State Auditor  
Missouri Senate  
Office of the Secretary of State  
Office of the State Public Defender  
Office of the State Treasurer  
Boone County Sheriff's Department  
Springfield Police Department  
City of Centralia  
City of Kansas City  
City of West Plains  
Cass County  
St. Louis County



Mickey Wilson, CPA  
Director  
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