

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6435-01
Bill No.: HB 2171
Subject: Crimes and Punishment; Search and Seizure
Type: Original
Date: March 26, 2014

Bill Summary: This proposal changes the laws regarding the reimbursement of the state or local law enforcement by a defendant for the cost of searching and examining any seized electronic devices.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Highway Funds	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
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 2015	FY 2016	FY 2017
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Prosecution Services** state this proposal would not create a fiscal impact on their agency. However, the proposal would potentially create an unknown additional revenue for county prosecuting attorney's offices.

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state due to the time constraints in responding to this bill, the MHP will use the figures obtained in 2012 for similar legislation. In that legislation, the Division of Drug and Crime Control (DDCC) stated that during the preceding 27 months, the Computer Forensic Unit has examined computers or other devices associated with 29 sexual offender cases. Investigators spent 2,030 hours conducting these 29 examinations which comes to an average of 70 hours per case (2,030/29). This unit is currently staffed by two Sergeants and a Trooper and an average hourly salary was figured at \$28 per hour which equates to \$1,960 per case (70 x \$28). When the FY12 fringe benefit rate of 88.19% was included, the total amount per case was \$3,688 (\$1,960 + 88.19%). If the average number of cases per year (29/27 x 12) is multiplied by the total fiscal impact amount per case, the fiscal impact per year is \$47,531. DDCC believes these numbers to be on the low end as an investigator was added to the unit as a result of the merger with the Water Patrol.

Since the legislation specifies that this money cannot be deposited into General Revenue, the Patrol is using the Highway fund for purposes of this fiscal note.

MHP states they have not received any proceeds from this Section (488.5375) since it was enacted in 2012.

Officials from the **Office of the State Public Defender (SPD)** state as more and more fees and costs are imposed on defendants, the less likely indigent public defender clients will be able to pay the public defender fee or lien. So as these costs go up, the collections to the Missouri State Public Defender Fund will go down.

Oversight assumes the impact described by the SPD would be considered a potential indirect impact of the legislation and have not included it in the fiscal note.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the proposed legislation changes the laws regarding the reimbursement of the state or local law enforcement by a defendant for the costs of searching and examining any seized electronic devices. Any offender ordered by the court to pay costs under this section shall not be released from probation until such costs have been paid in full. The Board of Probation and Parole shall not release any person from any term of parole for such offense until the person has paid such costs or until the maximum term of parole for such offense has been served.

The bill language allows the costs to be taken from inmate accounts while incarcerated and upon conditional release or parole. If any amount of the cost is unpaid, the payment of the unpaid balance may be collected as a condition of conditional release or parole by the prosecuting attorney or circuit attorney under § 559.100. The prosecuting attorney or circuit attorney may refer any failure to make such restitution as a condition of conditional release or parole to the parole board for enforcement.

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 direct offender cost either through incarceration (FY12 average of \$17.059 per offender, per day, or an annual cost of \$6,227 per inmate) or through supervision provided by the Board of Probation and Parole (FY12 average of \$4.960 per offender, per day, or an annual cost of \$1,810 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional costs to the department and the exact fiscal impact is unknown.

Officials from the **Springfield Police Department** assume the proposal would not fiscally impact their agency.

Officials from the Columbia Police Department and the Boone County Sheriff's Office did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE FUND			
<u>Costs</u> - Department of Corrections - additional costs of incarceration / supervision of offenders who fail to make restitution for cost of searching and examining seized electronic devices	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
HIGHWAY FUNDS			
<u>Income</u> - to Missouri Highway Patrol - the court shall order certain defendants to reimburse law enforcement agencies performing an analysis of computer equipment	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO THE HIGHWAY FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
LOCAL POLITICAL SUBDIVISIONS			
<u>Income</u> - to local law enforcement - the court shall order certain defendants to reimburse law enforcement agencies performing an analysis of computer equipment	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal changes the laws regarding the reimbursement of the state or local law enforcement by a defendant for the cost of searching and examining any seized electronic devices.

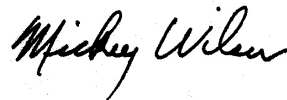
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety
Missouri Highway Patrol
Office of the State Courts Administrator
Department of Corrections
Office of the State Public Defender
Office of Prosecution Services

Not Responding:

Columbia Police Department
Boone County Sheriff's Department



Mickey Wilson, CPA
Director
March 26, 2014

Ross Strope
Assistant Director

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