COMMITTEE ON LEGISLATIVE RESEARCH OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0042-05

Bill No.: SCS for HCS for HB 57

Subject: Crimes and Punishment; Firearms; Law Enforcement Officers and Agencies

Type: Original

<u>Date</u>: April 17, 2017

Bill Summary: This proposal modifies provisions relating to law enforcement.

FISCAL SUMMARY

ESTIMA	ATED NET EFFE	CT ON GENERA	L REVENUE FU	ND
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
General Revenue	(\$4,437,703)	(\$6,450,038)	(\$8,365,538)	(\$14,471,719)
Total Estimated Net Effect on General Revenue	(\$4,437,703)	(\$6,450,038)	(\$8,365,538)	(\$14,471,719)

ESTI	MATED NET EF	FECT ON OTHE	R STATE FUNDS	S
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
Criminal Records System *	\$0	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

^{*}Transfers in and grants paid will net to \$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 14 pages.

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ES	TIMATED NET	EFFECT ON FEI	DERAL FUNDS	
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATI	ED NET EFFECT	ON FULL TIMI	E EQUIVALENT	(FTE)
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
Total Estimated Net Effect on FTE	0	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

E	ESTIMATED NET EFFECT ON LOCAL FUNDS											
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)								
Local Government	\$0	\$0	\$0	\$0								

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FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state this bill:

Modifies provisions relating to certain crimes against law enforcement officers.

Version 2 is essentially a different bill. Version 1 used an increase in the felony class to enhance the sentences of offenses against law enforcement officers, version 2 denies probation or parole to increase the prison time and leaves the felony class unchanged.

This version eliminates voluntary and involuntary manslaughter provisions pertaining to law enforcement officers. If a law enforcement officer is the victim in assault 1st, 2nd, 3rd, 4th and resisting arrest offenses, offenders found guilty cannot be eligible for probation or parole. Conditional release terms, as prescribed in RSMo 558.011, would apply. It is worth noting that this population prediction can be impacted by the courts with the latitude provided them in conditional release cases. The statute states that in cases of class D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or the court can impose a sentence of imprisonment for a term longer that one year and shall commit the person to the custody of the department of corrections, in which the terms of conditional release would apply.

Assault 1st and 2nd are dangerous felonies in which the offenders would serve 100% of the sentence because they are excluded from the provisions of conditional release. Assault 4th is a class A misdemeanor with a term less than one year and, because of the incarceration requirements would not be supervised by the Department of Corrections.

The department uses new prison admissions in FY16 to estimate the number of offenders who will be impacted by the proposed sentencing changes and the time served by offenders released in FY16 to estimate the prison time served. While most prison time is served to first release many parolees are revoked and re-incarcerated. The department has estimated based upon an analysis of sentences discharged in FY16 that 42% of the time from first release to the discharge of the sentence is spent in prison. This time is added to the time to first release.

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ASSUMPTION (continued)

A difficulty the department has in estimating the impact of changes to the sentencing of assault offenses for the fiscal impact is that the criminal code revision that was enacted on January 1, 2017 included a major revision to the assault statutes by creating four degrees of assault. There has been no sentencing of offenders under these new statutes so the department is assuming an equivalency between the old offense of assault 1st degree of a law enforcement officer (LEO) and the new offense of assault 1st degree against a special victim and similarly for assault 2nd degree. The new offense of assault 3rd degree is approximated by the offenders the department received for misdemeanor probation.

For assault 1st (LEO), 5 offenders were admitted to serve a term sentence and 2 received probation in FY16. The term admissions serve 62% of an average 17 year sentence. As dangerous felons, the 5 term sentences would do an additional 38% and the two probation cases serve 100% of the sentence because all would be excluded from conditional release.

For assault 2nd (LEO), 69 offenders were admitted to serve a term sentence, 32 were 120 day admissions, and 96 received probation in FY16. The term sentence group could expect to serve 52% of an 8 year sentence in prison. As dangerous felons, they would be excluded from conditional release and have to serve 100% of the sentence in prison or an additional 3.9 years. The other 128 120 Day/probation cases would get term sentences and would serve the entire prison sentence.

The 20 new admissions for assault 3rd were probation cases in FY16. This group would now serve 67% of an average 3.5 year sentence or 2.3 years before release. And 42% of the releases can expect to become parole returns.

Finally, in FY16 there were 95 term sentences for resisting arrest, 34 received 120 Day and 248 received probation. The term sentence group could expect to serve 31% of an average 4.2 year sentence. These individuals will now serve 67% or 1.5 additional years in prison. The 282 120 Day/probation cases would all serve 67% of the sentence. And 42% of the releases can expect to become parole returns.

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<u>ASSUMPTION</u> (continued)

The following table illustrates the sentence distribution and expected impact to DOC.

Impact of mandating no probation or parole for assault on a law enforcement office rand resisting arrest

	CONTRACTOR NAME	Average Sent	tence (yrs)	Length	ofstay (y	s) to					Total Impact		
	Admissions	FY1	6	frstr	elease (F`	16)	Time remain	ning on ser	ntence (yrs)	First	Parole		Impact
	FY16	Before	After	Before	After	horease	Before	Afer	Increase	release	retums	Total	after 10
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(1)*(6)	(1)1(9)142%	1000	years
Term Sentences (serve Ion	ger in prison	1)											
Assault 1st (LEO)	5	17.0	17.0	14.5	17	2.6	2.6	-	-2.6	13	-5	7	-
Assault 2nd (LEO)	69	8.0	8.0	6.8	8	1.2	1.2	-	-1.2	83	-35	48	48
Resisting Arrest	95	4.2	4.2	1.3	2.8	1.5	2.9	1.4	-1.5	144	-60	83	83
120 day and Probation (no	w serve term	se nte nce)											
Assault 1st (LEO)	2		17.0		17.0	17.0	-	_		34	-	34	20
Assault 2nd (LEO)	128		8.0		8.0	8.0	1	-		1,024	-	1,024	1, 024
Assault 3rd (LEO)	20		3.5		2.3	2.3	- 1	1.2	1.2	47	10	57	57
Resisting Arrest	282		4.2		2.8	2.8	-	1.4	1.4	794	164	958	958
Total Prison	601									2,138	73	2,211	2 190
Field Supervision (Parole)									· · · · · · · · · · · · · · · · · · ·			-1,694	-1,694

The total impact is expected to be an increase in the prison population of 2,211 but only 2,190 would occur within the 10 year budget horizon. There would be a reduction of 1,694 in the field population as more time is spent in prison. The increase in the prison population is so large because many offenders convicted of the assault offenses are currently sentenced to probation or a 120 day program under 559.115 RSMo.

The timing of the impact is calculated by adding the increase in the prison population of those offenders who would have been sentenced to a term sentence after the time they would have served. For the offenders who would not have been incarcerated under current legislation the impact occurs in the first year following the enactment of the bill. The calculations below show that the prison population will increase by 423 in the first year and will increase significantly in each year for eight years when the prison population will increase by 2,187.

(See next page.)

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A ssault of LEO 1st (Dangerous Felony) - serving a longer time served

SALVINO E A LIN INC.	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
A dmissions										
Admissions	5	5	5	5	5	5	5	5	5	5
Releases to parole									-	-
Prison and Field Population	on (admission	s* increa	sed leng	th of sta	y)					
Prison	-	-	-	-	-	-	-	-	-	-
Impact										
Total prison population	-	-	-	-		-	-	-	()	-
Field Population	_	_	_	_	-	_	_	_	-	_

A ssault of LEO 2nd (Dangerous Felony) - serving a longer time served

	FY20 18	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
A dmissions										
Admissions	69	69	69	69	69	69	69	69	69	69
Releases to parole										
Prison and Field Populati	on (admission	s* increa	sed leng	th of sta	y)					
Prison	-	-	-	-	-	-		48	48	48
Field Population	-	-	-	-	-	-	-	-48	-48	-48

Resisting Arrest - serving a longer time served

	FY20.18	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2028	FY2027
A dmissions								, , , , ,		
Admissions	95	95	95	95	95	95	95	95	95	95
Releases to parole										
Prison and Field Popula	ation (admission	s* increa	sed leng	th of sta	y)					
Prison	-	-	46	83	83	83	83	83	83	83
Field Population	-	-	-46	-83	-83	-83	-83	-83	-83	-83

A ssault of LEO 1st (Dangerous Felony) - offenders now serving a term sentence

	FY20 18	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
A dmissions										
Admissions	2	2	2	2	2	2	2	2	2	2
Releases to parole										
Prison and Field Populat	tion (admission	s* increa	sed leng	th of star	y)					
Prison	2	4	6	8	10	12	14	16	18	20
Field Population	-2	-4	-6	-8	-10	-12	-14	-16	-18	-20

A ssault of LEO 2nd (Dangerous Felony) - offenders now serving a term sentence

1 m 12 m m 12 m 12 m	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
A dmissions										
Admissions	128	128	128	128	128	128	128	128	128	128
Releases to parole										
Prison and Field Population (admission:	s* incre a	sed lend	th of sta	v)					
Prison	128	256	384	512	640	768	896	1,024	1,024	1,024
Previous five year probation	128	256	384	512	640	640	640	640	640	640
Reduction in Field Population	-128	-258	-384	-512	-640	-640	-640	-640	-640	-6 40

A ssault of LEO 3rd (offenders now serving a term sentence)

A LONG TO STATE OF THE STATE OF	FY20 18	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
A dmissions										
Admissions	20	20	20	20	20	20	20	20	20	20
Releases to parole			17	20	20	20	20	20	20	20
Prison and Field Population (admission	s* increa	sed lend	th of sta	v)					
Prison	20	40	43	57	57	57	57	57	57	57
Previous three year probation	20	40	60	60	60	60	60	60	60	60
Field Population	-20	-40	-43	-57	-57	-57	-57	-57	-57	-57

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ASSUMPTION (continued)

Resisting Arrest

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions		14-11-11-11								
Admissions	282	282	282	282	282	282	282	282	282	282
Releases to parole				169	282	282	282	282	282	282
Prison and Field Population	admission:	s* increa	sed leng	th of sta	y)					
Prison	282	584	846	959	959	959	959	959	959	959
Previous three year probation	282	584	846	846	846	846	848	848	848	846
Field Population	-282	-564	-846	-846	-846	-846	-846	-848	-846	-848

Total Impact

200	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Longer time serve d	0.00 77 67 15 10 70									A CONTRACTOR
Assault of LEO 1st Term	-	-	-	-	-	-	-	-	-	-
Assault of LEO 2nd Term	-	-	-	-	-	-	-	48	48	48
Resisting Arrest	-	-	46	83	83	83	83	83	83	83
New admissions-previously se	rve d prob	ation/120) day							
Assault of LEO 1st new term	2	4	6	8	10	12	14	16	18	20
Assault of LEO 2nd new term	128	256	384	512	640	768	896	1,024	1,024	1,024
Assault of LEO 3rd new term	20	40	43	57	57	57	57	57	57	57
Resisting Arrest	282	584	846	959	959	959	959	959	959	959
Total Prison population	432	864	1,325	1,618	1,748	1,878	2,008	2,187	2,189	2,191
Total Field population	-432	-864	-1,325	-1,506	-1,636	-1,638	-1,640	-1,690	-1,692	-1,694

If this impact statement has changed from statements submitted in previous years, it is because the department's Budget and Research Section reviewed the way responses had been submitted and has developed a more precise way to calculate the impact. In previous year's responses, the full impact of recidivism for parole releases was not adequately calculated. Now we have been able to quantify the fact that some parolees are returned to prison after release and that has been added into the calculation of the impact. The total number of offenders has not changed but there is an assumption that they will spend more time back in prison rather than being on community supervision, which will increase the amount of the impacts.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

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<u>ASSUMPTION</u> (continued)

							Grand Total -
						Total cost	Prison and
				fewer		for	Probation
	# to	Cost per	Total Costs	# to	Cost per	probation	(includes and
	prison	year	for prison	probatio	n year	and parole	2% inflation
Year 1	432	(\$6,085)	(\$2,628,720)	(432)	(\$2,234)	\$965,088	(\$1,386,360)
Year 2	864	(\$6,085)	(\$5,257,440)	(864)	(\$2,234)	\$1,930,176	(\$3,393,809)
Year 3	1,325	(\$6,085)	(\$8,062,625)	(1,325)	(\$2,234)	\$2,960,050	(\$5,308,719)
Year 4	1,618	(\$6,085)	(\$9,845,530)	(1,506)	(\$2,234)	\$3,364,404	(\$6,877,823)
Year 5	1,748	(\$6,085)	(\$10,636,580)	(1,636)	(\$2,234)	\$3,654,824	(\$7,557,277)
Year 6	1,878	(\$6,085)	(\$11,427,630)	(1,638)	(\$2,234)	\$3,659,292	(\$8,576,873)
Year 7	2,008	(\$6,085)	(\$12,218,680)	(1,640)	(\$2,234)	\$3,663,760	(\$9,634,229)
Year 8	2,187	(\$6,085)	(\$13,307,895)	(1,690)	(\$2,234)	\$3,775,460	(\$10,949,771)
Year 9	2,189	(\$6,085)	(\$13,320,065)	(1,692)	(\$2,234)	\$3,779,928	(\$11,177,791)
Year 10	2,191	(\$6,085)	(\$13,332,235)	(1,694)	(\$2,234)	\$3,784,396	(\$11,410,551)

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state changes to Section 43.530 will have an unknown fiscal impact to the Criminal Records System Fund (CRS) ranging from \$0 up to approximately \$15,000,000. The estimate based on a zero impact represents the legislation not being implemented, while the higher range represents the total amount of the fund that could fall under the spending authority of the Department of Public Safety (DPS). If the latter occurs, and all the money is disbursed through grants, then the Highway Patrol would have to request additional appropriations to cover expenses originally budgeted through this fund.

The average yearly income into the CRS Fund, solely by the background check fees established in 43.530, RSMo is \$12 million. This year, the spending authority for the CRS Fund is roughly \$14.58 million with \$312,000 allocated to the Office of Administration for benefits, \$450,000 for unemployment benefits, \$4,100,000 for Personal Services (PS), \$3,600,000 for Fringe Benefits, and \$6,500,000 for Expenses and Equipment (E&E). Some previous E&E purchases have included AFIS equipment, palm print database, Livescan updates, Sex Offender Website, Sex Offender Registry, sex offender notification system upgrades, and MULES training.

The removal of the grant penalty clause from 43.505, RSMo for failing to submit UCR data to the state would make MoUCR reporting voluntary.

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ASSUMPTION (continued)

Officials from the **Department of Public Safety - Office of the Director (DPS)** state section 43.505 removes the ability for DPS to withhold funds for failure to submit UCRs with the passage of this legislation, however adds language that any law enforcement agency that violates this section after December 31, 2021, may be ineligible to receive state or federal funds which would otherwise be paid to such agency for law enforcement, safety, or criminal justice purposes. This has no fiscal impact, but a change in practice.

Section 43.530 - DPS could be tasked with administering the proposed grant program. It is not known how the grant program would be allocated at this point in time. We think it could possibly require hiring (2) 1,000-hour (temporary) individuals to administer the program.

Section 57.450 - Allows the office of sheriff of the St. Louis to be considered a law enforcement agency, and the sheriff and sworn deputies of the office to be considered law enforcement officers and eligible for training and licensure by the peace officer standards and training commission under chapter 590. This has no fiscal impact to our agency.

Section 488.5320 - Subsection allows the MODEX fund to accept funds from federal, state, local, and private entities which utilize the information from the fund to fight fraud and other activities. We see no fiscal impact due to this section.

Section 513.653 - Delays the due date of federal forfeitures reporting, allows the law enforcement agencies to provide to the State Auditor only a copy of the federal form submitted in that year to the federal government. Failure to comply with this section will make the law enforcement agency ineligible to receive state or federal forms which would otherwise be paid to such agency for law enforcement, safety, or criminal justice purposes. We see no fiscal impact for this section.

Section 650.530 - States that the director of the department of public safety shall be the state of Missouri's state 911 coordinator and the director may designate an employee of the department of public safety to act as his or her designee. We see no fiscal impact due to this section.

DPS has ascertained the possible costs for this legislation to be as follows:

Two 1,000-hour Employees (\$25.00/Hour)				
Fringe Benefits (FICA/Medicare Only)				
Expense and Equipment				
(FY2018)	\$51,343			
	,			

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ASSUMPTION (continued)

In response to a similar proposal from this year (SB 414), officials from the **Office of the State Auditor** and the **Springfield Police Department** each assumed the proposal would not fiscally impact their respective agencies.

Oversight notes that according to reports from the Office of the State Treasurer, receipts into the Criminal Record System Fund (0671) over the past three fiscal years and the ending balances have been:

	Receipts	Ending balance
FY 2016	\$12,167,424	\$3,586,465
FY 2015	\$11,037,645	\$2,350,377
FY 2014	\$10,022,160	\$1,831,297

The balance of the Fund as of March 31, 2017 was \$4,919,230.

Utilizing \$12 million as the amount of funds available to the Department of Public Safety to distribute as grants to local law enforcement agencies, **Oversight** will reflect below examples of how much "a portion of these funds" could represent.

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Proceeds in Criminal	portion to be	Highway Patrol	Local Law Enforcement
Records Fund	distributed as grants	portion	portion
\$12,000,000	0%	\$12,000,000	\$0
\$12,000,000	10%	\$10,800,000	\$1,200,000
\$12,000,000	25%	\$9,000,000	\$3,000,000
\$12,000,000	50%	\$6,000,000	\$6,000,000
\$12,000,000	100%	\$0	\$12,000,000

For purposes of the fiscal note, Oversight will assume Department of Public Safety will distribute 25 percent of the proceeds as grants to local and county law enforcement agencies by way of a grant. Oversight will also reflect a transfer from the General Revenue Fund to the MHP to "cover expenses originally budgeted through this fund" as assumed by the MHP.

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ASSUMPTION (continued)

For the purpose of this proposed legislation, officials from the **Office of State Public Defender** (**SPD**) cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with the enhanced penalties for offenses committed against law enforcement officers and first responders when the offenses are committed because the person is a law enforcement officer or first responder.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Office of Prosecution Services**, the **Department of Public Safety - Capitol Police**, and the **Department of Public Safety - Division of Fire Safety** each assume the proposal would not fiscally impact their respective agencies.

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FISCAL IMPACT - State Government	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
GENERAL REVENUE				
Costs - DPS - §43.530 changes Personal Service Fringe Benefits Exp. & Equip. Total Costs - DPS	(\$41,667) (\$3,188) (\$6,489) (\$51,343)	(\$50,500) (\$3,863) (\$1,866) (\$56,229)	(\$51,005) (\$3,902) (\$1,912) (\$56,819)	(\$54,684) (\$4,183) (\$2,274) (\$61,168)
Transfer Out - to Criminal Records System Fund - to cover expenses incurred by the MHP	(\$3,000,000)	(\$3,000,000)	(\$3,000,000)	(\$3,000,000)
Costs - DOC - Increased incarceration expense partially offset by decreased supervision (parole) expense	(\$1,386,360)	(\$3,393,809)	(\$5,308,719)	(\$11,410,551)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$4,437,703)</u>	<u>(\$6,450,038)</u>	(\$8,365,538)	<u>(\$14,471,719)</u>

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FISCAL IMPACT - State Government (continued)	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
CRIMINAL RECORDS SYSTEM FUND				
Transfer In - from General Revenue - to cover lost funding to the MHP that is now distributed as grants to local law enforcement agencies	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000
Costs - DPS - grants awarded to local and county law enforcement agencies	(\$3,000,000)	(\$3,000,000)	(\$3,000,000)	(\$3,000,000)
ESTIMATED NET EFFECT TO THE CRIMINAL RECORDS SYSTEM FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
FISCAL IMPACT - Local Government	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
	<u>\$0</u>	<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.

RS:LR:OD

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FISCAL DESCRIPTION

This act provides that persons convicted of certain offenses against law enforcement officers, firefighters, or emergency medical service providers are ineligible for bail, continuation of bail, probation, or parole. The act also provides that persons convicted of resisting or interfering with arrest, detention, or stop are ineligible for probation or parole.

This act also requires the approval of the director of the Department of Public Safety for the expenditure of funds raised by the collection of fees for the usage of criminal history record information, and specifies that a portion of those funds to be determined by the director will be made available to local and county law enforcement agencies by way of a grant.

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 Corrections
Office of the State Courts Administrator
Department of Public Safety
Office of Prosecution Services
Office of the State Public Defender
Office of the State Auditor
Springfield Police Department

Mickey Wilson, CPA

Mickey Wilson

Director

April 17, 2017

Ross Strope Assistant Director April 17, 2017