

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4534-04
Bill No.: SS for SCS for HB 1769
Subject: Civil Penalties; Crimes and Punishment; County Officials; Secretary of State
Type: Original
Date: May 9, 2018

Bill Summary: This proposal creates the offense of filing false documents.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	(\$15,515)	(\$37,981)	(\$58,111)
Total Estimated Net Effect on General Revenue	(\$15,515)	(\$37,981)	(\$58,111)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
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 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on FTE			

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume the proposal will have no fiscal impact on their organization.

Officials from **Department of Corrections (DOC)** assume the proposal repeals the current class E felony and establishes a class D felony for the first offense and in the conditions of aggravating circumstances a class C felony. The language in the newly created section is more specific than that in the current statute, and allows for a Class D felony for first time offenders, with an enhancement to class C for repeat offenders or offenses against certain government officials, police, fire fighters, etc. While this change makes the legislation more clear, it does not appear that any new actions would be considered a crime under these changes.

The current legislation found in RSMo 400.9-501 was modified in 2014 to introduce the criminal penalty. No charge code was ever created for this statute, and the legislation is still quite new, meaning that good data for the current impact is unknown. Thus, this will be treated as a new offense; further, as this offense is expected to be quite rare, only the D felony version will be considered. Under this situation, 3 individuals will be sentenced to prison and 5 to probation in each fiscal year. For incarcerated individuals, the average sentence is 4.8 years, with a total of 2.9 years in prison and 1.9 years on parole; the probationers serve a 3.0 year term.

If this impact statement has changed from statements submitted in previous years, it is because the DOC has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

ASSUMPTION (continued)

The DOC cost of incarceration is \$17,003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

	# to prison	Cost per year	Total Costs for prison		# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	3	(\$6,206)	(\$15,515)		5	absorbed	\$0	(\$15,515)
Year 2	6	(\$6,206)	(\$37,981)		10	absorbed	\$0	(\$37,981)
Year 3	9	(\$6,206)	(\$58,111)		15	absorbed	\$0	(\$58,111)
Year 4	9	(\$6,206)	(\$59,273)		18	absorbed	\$0	(\$59,273)
Year 5	9	(\$6,206)	(\$60,458)		21	absorbed	\$0	(\$60,458)
Year 6	9	(\$6,206)	(\$61,667)		21	absorbed	\$0	(\$61,667)
Year 7	9	(\$6,206)	(\$62,901)		21	absorbed	\$0	(\$62,901)
Year 8	9	(\$6,206)	(\$64,159)		21	absorbed	\$0	(\$64,159)
Year 9	9	(\$6,206)	(\$65,442)		21	absorbed	\$0	(\$65,442)
Year 10	9	(\$6,206)	(\$66,751)		21	absorbed	\$0	(\$66,751)

Officials from the **Office of the State Public Defender** assume for the purpose of the proposed legislation, and as a result of excessive caseloads, the Office of the State Public Defender cannot assume existing staff will provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime of intentionally filing a fraudulent financing statement or any financing statement with the Secretary of State with the intent to harass or defraud any other person. This offense would be a new Class D Felony, unless the offense meets other circumstances, then it becomes a new Class C Felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Office of the State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources. The Attorney General's Office may seek additional appropriations if there is a significant increase in litigation.

Officials from the **Office of Prosecution Services** assumed the proposal will have no measurable fiscal impact on their organization.

Officials from the **Department of Public Safety-Missouri State Highway Patrol, Department of Public Safety Capitol Police, Department of Public Safety Office of the Director, Department of Labor and Industrial Relations, Missouri Department of Conservation, Office of Administration-General Services, Department of Revenue, Department of Transportation, and Department of Insurance, Financial Institutions and Professional Registration** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Platte County Board of Elections, Jackson County Election Board, St. Louis County Election Board,** and the **City of Kansas City** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **State Technical College of Missouri, Missouri Western State University,** and **Summersville R2 School District** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Boone County Sheriff's Department** assumed the proposal will have no fiscal impact on their organization.

In response to a previous version, officials from the **St. Charles County Recorder of Deeds' Office** assumed the proposal will have no fiscal impact on their organization.

Officials from the following **law enforcement agencies:** Buchanan County Sheriff's Department, Callaway County Sheriff's Office, Cass County Sheriff's Office, Clark County Sheriff's Department, Clay County Sheriff's Department, Cole County Sheriff's Department, Franklin County Sheriff, Greene County Sheriff's Department, Jackson County Sheriff's Department, Jasper County Sheriff's Department, Jefferson City Police Department, Jefferson

ASSUMPTION (continued)

County Sheriff's Department, Lawrence County Sheriff's Department, Platte County Sheriff's Department, did not respond to **Oversight's** request for a statement of fiscal impact.

Officials from the St. Louis City Recorder of Deeds, Cape Girardeau County Recorder of Deeds, Johnson County Recorder of Deeds, Laclede County Recorder, and Mississippi County Recorder of Deeds, did not respond to **Oversight's** request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE FUND			
<u>Cost - DOC - increased incarceration costs for creation of offense of filing false documents</u>	<u>(\$15,515)</u>	<u>(\$37,981)</u>	<u>(\$58,111)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$15,515)</u>	<u>(\$37,981)</u>	<u>(\$58,111)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<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

This proposal creates the offense of filing a false document, which is committed if, with intent to defraud, deceive, harass, alarm, or negatively impact financially, a person files, causes to be filed, or attempts to file, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, or transferred to the Secretary of State or his or her designee, any county recorder of deeds or his or her designee, any municipal, county, district, or state government entity or office, or any credit bureau or financial institution specified documents. For the first offense, filing a false document is a class D felony. Filing false documents is a class C felony in certain specified instances. Any person who is found

FISCAL DESCRIPTION (continued)

guilty of committing such offense will be ordered to make full restitution to any person or entity that has sustained any actual losses as a result of the commission of such offense.

The proposal specifies that a system must be created, by January 1, 2019, in which suspicious filings are logged, and outlines the process for petitioning the court when a person has probable cause to believe a filing is fraudulent.

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 Secretary of State
Office of the State Public Defender
Office of State Courts Administrator
Attorney General's Office
Department of Corrections
Department of Public Safety-Missouri State Highway Patrol
Department of Public Safety-Capitol Police
Department of Public Safety-Office of the Director
Department of Labor and Industrial Relations
Missouri Department of Conservation
Office of Administration-General Services
Department of Revenue

SOURCES OF INFORMATION (continued)

Department of Transportation
Department of Insurance, Financial Institutions and Professional Registration
Office of Prosecution Services
Platte County Board of Elections
Jackson County Election Board
St. Louis County Election Board
City of Kansas City
State Technical College of Missouri
Missouri Western State University
Summersville R2 School District
Boone County Sheriff's Department
St. Charles County Recorder of Deeds' Office

Ross Strope



Acting Director
May 9, 2018