

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0343H.01I
 Bill No.: HB 286
 Subject: Civil Procedure; Civil Penalties; Law Enforcement Officers and Agencies
 Type: Original
 Date: February 16, 2021

Bill Summary: This proposal allows a civil action for summoning a police officer.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue (appropriation increase to LEF for cost increase)*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*The bill could create claims and damages that could potentially be asserted against the state or other entities. If such claims were successfully pursued, they could result in additional costs to the state or local political subdivisions. Oversight assumes the exposure would not exceed \$250,000.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Legal Expense Fund*	\$0	\$0	\$0
Tort Victims Compensation Fund	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*Indicates numbers that net to zero.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

In response to similar legislation from 2020, HB 1593, officials at the **Office of Administration** assumed:

537.562 – These sections could create claims and damages that could potentially be asserted against the state or other entities covered by the Legal Expense Fund. If such claims were successfully pursued, they could result in additional costs to the Legal Expense Fund. However, the amount of the potential costs resulting from this proposal cannot be reasonably estimated as this language creates new legal standards, subject to judicial interpretation, and there is no readily available information that could assist in forming a rational basis for estimating costs. In addition, the number of potential claims, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

Tort Victims Compensation Fund - \$0 to Unknown

The Department of Labor Website says “The Tort Victims’ Compensation Fund exists to help compensate those who have been injured due to the negligence or recklessness of another (such as in a motor vehicle collision or a hunting accident), and who have been unable to obtain full compensation because the party at fault (the tortfeasor) had no insurance, or inadequate insurance, or has filed for bankruptcy, or for other reasons specified by the law.”

Oversight notes that under §537.675.3, 50% of the punitive damage state judgments, after deducting attorney's fees and expenses, shall go into the Tort Victims' Compensation Fund (0622). Because this proposal tends to increase punitive damages awards, it appears to have a positive direct fiscal impact to the tort victims’ compensation fund.

Information provided by the Attorney General shows that between July, 2014, and December, 2019, the Tort Victims Compensation Fund received \$20,043,083. During that period, average annual payments into the Tort Victims Compensation Fund were \$3,644,197.

Because this is a new cause of action that will tend to increase the amount of punitive damages, it will also tend to increase payments into the TVCF. Oversight cannot estimate a specific increase in funding, and will show a \$0 to Unknown direct fiscal impact to the TVCF.

Legal Expense Fund (LEF) - \$0 to (Unknown)

“The State Legal Expense Fund (LEF) is used for payments in resolution of judgments or claims for damages from injured parties arising out of the actions of state employees, agencies, contracted physicians, and the condition of state property.” *Audit Report No. 2017-098*. According to information from OARM, 20% of the LEF’s funds came from other state funds, on average, from FY 2015 - 2018. Over that same time, the LEF paid out \$18,580,430 per year, on average.

Because this bill creates a new cause of action against state agencies covered by the LEF, Oversight will show a net \$0 direct fiscal impact for the LEF, and a \$0 to (unknown) direct fiscal impact to General Revenue and other state funds.

Officials from the **City of Kansas City** assume this proposal could have a negative fiscal impact on Kansas City because it could increase exposure to liability. Although, the Kansas City Police Department is a state agency and separate from Kansas City, Kansas City is still liable for torts committed by Kansas City Police Department officers.

Officials from the **Ellisville Police Department** assume this proposal may have significant fiscal impact on police agencies. Adding this charge allows for civil suit and the potential for officers to be required to appear and respond as part of the civil suit, these types of suits have a high potential for being frivolous thus creating a serious drain on officers time and department budgets for overtime.

In response to similar legislation from 2020, HB 1593, officials at the **Lake St. Louis Police Department** assumed that this could have a tremendous financial impact on law enforcement pertaining to manpower and staffing as officers would spend excessive amounts of time testifying in civil litigation and court hours. This may cause lack of coverage for public safety and increased costs for additional personnel.

Because some local governments say this proposal will have no cost, and some show increased costs, **Oversight** shows a \$0 to (Unknown) for locals because of an expected increase in costs associated with lawsuits.

Officials at the **Office of the Attorney General (AGO)** assume that any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources, however, the AGO may seek additional appropriations if there is a significant increase in litigation.

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the AGO.

Officials at the **Department of Public Safety** and the **Office of State Courts Administrator** assume this proposal has no direct fiscal impact on their agencies. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

In response to similar legislation from 2020, HB 1593, officials from the **Missouri Department of Transportation** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

Officials from the **City of Ballwin**, the **City of Bland**, the **City of Claycomo**, the **City of Corder**, the **City of Hughesville**, the **City of O’Fallon**, the **City of Springfield**, the **Crestwood Police Department**, the **Kansas City Police Department** and the **St. Joseph Police Department** each assume this proposal has no direct fiscal impact on their respective governments. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

In response to similar legislation from 2020, HB 1593, officials from the **Springfield Police Department** and the **St. Louis County Department of Justice Services** each assumed the proposal will have no fiscal impact on their organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

<u>FISCAL IMPACT –</u> <u>State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE			
<u>Cost Increase –</u> potential increase in transfer to LEF	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

OTHER STATE FUNDS			
<u>Cost Increase</u> – potential increase in transfer to LEF	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
LEGAL EXPENSE FUND (0692)			
<u>Transfer in</u> – Increase in appropriation from GR	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost increase</u> – Increase in LEF payouts	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON LEF	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TORT VICTIMS COMPENSATION FUND			
<u>Revenue Increase</u> – Various State Agencies – potential increase from pay outs of punitive damages to TVCF	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON TVCF	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL GOVERNMENT			
<u>Cost increase – Increase in staff and legal costs</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

FISCAL IMPACT – Small Business

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

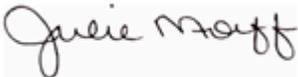
FISCAL DESCRIPTION

This bill specifies that a person may bring a civil action for damages against any person who knowingly causes a police officer to arrive at a location to contact another person for certain reasons, provided in the bill. The bill also specifies what a prevailing plaintiff may recover.

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 Administration
City of Kansas City
Ellisville Police Department
Lake St. Louis Police Department
Attorney General's Office
Department of Public Safety
Office of the State Courts Administrator
Missouri Department of Transportation
City of Ballwin
City of Bland
City of Claycomo
City of Corder
City of Hughesville
City of O'Fallon
City of Springfield
Crestwood Police Department
Kansas City Police Department
St. Joseph Police Department
Springfield Police Department
St. Louis County Department of Justice Services



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February 16, 2021



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