

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1699H.011
Bill No.: HB 750
Subject: Law Enforcement Officers and Agencies; Federal - State Relations; Property, Real and Personal; Civil Procedure; Criminal Procedure
Type: Original
Date: March 1, 2021

Bill Summary: This proposal establishes provisions relating to asset forfeiture.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Federal Funds	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)	(Unknown, greater than \$250,000)

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*	Up to \$558,678	Up to \$670,425	Up to \$670,425

*Reduced seized property proceeds to police and sheriff's departments offset by gains to local school districts.

FISCAL ANALYSIS

ASSUMPTION

§513.655 – Asset forfeiture

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** assume this legislation would prohibit the Patrol from receiving any federal sharing of forfeiture assets as the federal government would now choose to retain them. This would also affect all state drug task forces, as it would significantly reduce their operating budgets. The Patrol is unable to determine the dollar amount of this impact, as it cannot foresee any seizure it might have otherwise received.

Oversight is unable to determine how much impact this would have on the MHP. Therefore, Oversight will reflect a loss of unknown, greater than \$250,000 in asset seizure proceeds being returned from the federal government to the MHP.

Officials from the **Kansas City Police Department** state the elimination of federal forfeiture funds would severely hinder the Kansas City Missouri Police Department's ability to purchase under-funded critical safety equipment. There is not sufficient funding through the City of Kansas City for critical safety equipment. Forfeiture fund purchases supplement the City's funding in order to support law enforcement activities.

In response to similar legislation from 2019 (HB 444), officials at the **St. Louis County Police Department** assumed this proposal prohibits law enforcement agencies from transferring seized property to a federal agency in forfeiture litigation except if the seized property is \$100,000 or more in currency. Captain Boschert, the subject matter expert for St. Louis County Police, advised that the proposed legislation contradicts federal law and would cost the Department over \$100,000 in forfeiture funds.

In response to similar legislation from 2019 (HB 444), officials at the **Jefferson County Sheriff's Office** assumed an annual cost of \$100,000 from this proposal.

In response to similar legislation from 2018 (HB 1501), officials at the **Greene County Sheriff's Department** assumed a cost of several hundred thousand dollars per year.

In response to similar legislation in 2018 (HB 1501), officials at the **Springfield Police Department** assumed a cost of \$78,000 in forfeiture funds each year. The \$78,000 would have been the amount remitted back to the Department by the federal agency to purchase needed law enforcement equipment and to fund training.

In response to similar legislation in 2018 (HB 1501), officials at the **Joplin Police Department** assumed an unknown negative fiscal impact. The vast majority of the Department's cases that go federal and are seized are less than \$100,000.

Officials from the **Attorney General’s Office**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **Office of the State Public Defender**, the **Crestwood Police Department**, the **High Point R-III School District**, and the **Springfield R-XII School District** each assume the proposal will have no fiscal impact on their respective organizations.

SEQ CHAPTER \h \r 1Oversight assumes the appropriate school districts would receive the proceeds of the seized property referred to in this bill. Therefore, Oversight reflect an offsetting gain to local school districts, netting the fiscal impact to political subdivisions to zero.

Oversight notes the following dollar value of dispositions by seizures as reported by the State Auditor’s Office report on Compilation of 2020 Criminal Activity Forfeiture Act Seizures:

	2020	2019	2018
Pending	\$1,976,806	\$2,360,882	\$2,067,837
Returned	\$449,926	\$755,664	\$571,892
Transferred to Federal Agency	\$1,626,927	\$2,661,582	\$5,767,867
Transferred to State	\$28,437	\$73,851	\$100,915
Other	\$60,586	\$59,480	\$44,658
Disposition not reported	\$48,003	\$3,508	\$549,548
Total	\$4,190,685	\$5,914,967	\$9,102,717

Source: Office of the State Auditor’s Report

The State Auditor’s report states the overall dollar value for property seized in 2020 was \$4,190,685. Of that total, \$449,926 was returned, \$1,626,927 was transferred to a federal agency, and \$28,437 was transferred to the state. The disposition for \$1,976,806 was pending at the time of the report and no disposition was reported for \$48,003. There were also 502 reported seizures, of which 281 had criminal charges filed.

Oversight notes the average value of property transferred to a federal agency during the three years reported above is \$3,352,125 $((\$1,626,927 + \$2,661,582 + \$5,767,867)/3)$. Oversight notes the proposal states that no property seized under state law may be transferred to the federal government. Oversight is unsure if all of the property totaled in the Office of the State Auditor report was seized under state law. Therefore, Oversight will assume this will result in a reduction of seized property being transferred to the federal government of “up to” approximately \$3,352,125 each year and will, instead, be transferred to local school districts. Oversight understands that of the property transferred to the federal government, a portion is then transferred back to the law enforcement agency. Therefore, Oversight will reflect a loss to law enforcement of approximately \$2,681,700 $(\$3,352,125 \times 80\%)$ per year.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other school districts and police and sheriff’s departments were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
FEDERAL FUNDS			
<u>Loss – MHP</u> (§513.655) Sharing seized assets with federal authorities	<u>(Unknown, greater than \$250,000)</u>	<u>(Unknown, greater than \$250,000)</u>	<u>(Unknown, greater than \$250,000)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(Unknown, greater than \$250,000)</u>	<u>(Unknown, greater than \$250,000)</u>	<u>(Unknown, greater than \$250,000)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Income – School districts (§513.655) Proceeds from seized property</u>	Up to \$2,793,438	Up to \$3,352,125	Up to \$3,352,125
<u>Loss – Police and sheriff’s departments Seized property must <u>not</u> be transferred to a federal agency. Therefore, local law enforcement agencies would not receive back a portion of the seized property from the federal agency</u>	(Up to \$2,234,750)	(Up to \$2,681,700)	(Up to \$2,681,700)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Up to \$558,678</u>	<u>Up to \$670,425</u>	<u>Up to \$670,425</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 prohibits law enforcement agencies and prosecuting authorities from referring, transferring, or otherwise relinquishing possession of seized property to a federal agency for the purpose of the property's forfeiture under federal law. Law enforcement agencies that participate in a multijurisdictional collaboration must transfer responsibility for the seized property to the state prosecuting authority. If federal law requires transfer of the property to a federal agency, the transferring law enforcement agency is prohibited from accepting payment of any kind

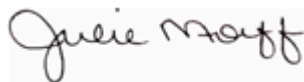
or distribution of forfeiture proceeds from the federal agency.

This bill does not restrict a law enforcement agency from acting alone or collaborating with another agency, including a federal agency, to seize contraband or property a law enforcement agency has probable cause to believe is the proceeds or instrument of an offense.

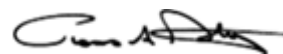
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Public Safety
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
Crestwood Police Department
Kansas City Police Department
Joplin Police Department
Springfield Police Department
St. Louis County Police Department
Jefferson County Sheriff's Office
Greene County Sheriff's Department
High Point R-III School District
Springfield R-XII School



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March 1, 2021



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