

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3308-02
Bill No.: SCS for HB 916
Subject: Credit and Bankruptcy; Crimes and Punishment; Liability
Type: Original
Date: February 25, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

In response to a previous version of the proposal, officials from the **Department of Public Safety – Missouri State Highway Patrol** assumed the proposed legislation would have no fiscal impact on their agency.

In response to a previous version of the proposal, officials from the **Office of Attorney General** assumed they can handle any additional criminal appeals arising from this bill with existing resources.

In response to a previous version of the proposal, officials from the **Office of State Courts Administrator** assumed the proposed legislation would revise the crime of identity theft and create a new crime of trafficking in stolen identities. A new civil cause of action is also created. While this is a relatively new crime, evidence indicates that it is growing rapidly nationwide. Any significant increase in the workload of the courts will be reflected in future budget requests.

In response to a previous version of the proposal, officials from the **Office of Prosecution Services** assume prosecutors could absorb the costs of the proposed legislation within existing resources.

ASSUMPTION (continued)

In response to a previous version of the proposal, officials from the **Office of State Public Defender (SPD)** assumed new crimes create new cases for the SPD. Increasing penalties of existing crimes increases the difficulty of existing cases handled by the SPD. The exact number of cases is too uncertain to provide a definitive dollar amount of fiscal impact.

Since the amount of impact is uncertain, the SPD is assuming existing staff could provide representation in these cases initially. However, once the true fiscal impact is determined, the SPD will reassess the impact of this legislation. Passage of more than one bill increasing existing penalties or creating new crimes will require increased appropriations for the SPD.

In response to a previous version of the proposal, officials from the **Department of Corrections (DOC)** assume this bill enhances crime criteria relating to identity crimes and trafficking in stolen identities. Penalty provisions, the component of the bill to have potential fiscal impact for the DOC, are enhanced to multi-tiered levels from a class A misdemeanor through a class A felony.

The DOC cannot currently predict the number of new commitments which may result from the multi-tiered enhancement of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. The probability exists that offenders could already be criminally charged under existing statute, but this new language may make it easier to prosecute and/or convict. Since 2000, there have been 5 offenders in the DOC with identity theft charges. This translates into an annual rate of 1.67 individuals per year. The average time served for a class C felony is 15 months. From indications of potential future trends, identity theft is a growing area of crime.

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 operational cost either through incarceration (FY02 average of \$35.52 per inmate, per day or an annual cost of \$12,965 per inmate) or through supervision provided by the Board of Probation and Parole (FY02 average of \$3.10 per offender, per day or an annual cost of \$1,132 per offender).

The DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. It is assumed the impact would be less than \$100,000 per year for the DOC for the three years of this fiscal note period, but the long-range impact is unknown.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<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.

DESCRIPTION

The proposed legislation would make several changes to the crimes of identity theft and false impersonation. The proposal would:

- (1) Make it a class A misdemeanor when the identity theft results in the theft or appropriation of credit, money, goods, services, or other property valued at less than \$500. Current law sets a penalty of six months in jail for a first offense and does not refer to the value of the stolen property;
- (2) Make it a class B misdemeanor when the identity theft or attempted identity theft does not result in the theft or appropriation of credit, money, goods, services, or other property;
- (3) Make identity theft a class D felony when the value of the stolen property is more than \$500 but does not exceed \$1,000;
- (4) Make identity theft a class C felony when the value of the stolen property is more than \$1,000 but does not exceed \$10,000;
- (5) Make identity theft a class B felony when the value of the stolen property is more than \$10,000 but does not exceed \$100,000;
- (6) Make identity theft a class A felony when the value of the stolen property exceeds \$100,000;
- (7) Make identity theft a class A felony when the identity theft is performed for the purpose of committing a terrorist act;
- (8) Make identity theft a class C felony when the identity theft is performed for the purpose of committing an election offense;
- (9) Make the identity thief liable to the victim for civil damages of up to \$5,000 per incident or three times the amount of actual damages, whichever is greater;
- (10) Allow the victim to seek a court order restraining the identity thief from future acts that would constitute identity theft. In these actions, the court may award reasonable attorney fees to the plaintiff;
- (11) Clarify that the estate of a deceased person may pursue civil remedies when the estate is a victim of identity theft;

(12) Set venue requirements for civil suits regarding identity theft, set a limitation on civil suits at five years, and clarify that a criminal conviction is not a prerequisite for a civil claim;

(13) Clarify that identity theft does not include a minor's misrepresentation of age by using an adult person's identification;

(14) Make a second offense a class D felony when the value of the property is less than \$500;

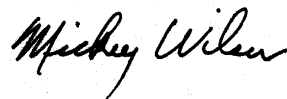
(15) Create the crime of trafficking in stolen identities, a class B felony; and

(16) Expand the crime of false impersonation to include the providing of a false identity to a law enforcement officer upon arrest. If the false identity is not discovered until after the person is convicted, the prosecutor must file a motion to correct the arrest records and court records. The proposal would also allow the court to order the expungement of the false arrest records for the person whose identity was used.

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 Attorney General
Office of State Courts Administrator
Department of Corrections
Department of Public Safety
– Missouri State Highway Patrol
Office of Prosecution Services
Office of State Public Defender



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