

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4107-01
Bill No.: HB 1384
Subject: Crimes and Punishment; Libraries and Archives; Public Records, Public Meetings
Type: Original
Date: February 24, 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 OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 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

Officials from the **Office of the Secretary of State - Records Services, Department of Higher Education, Department of Transportation** and the **Department of Public Safety** - Divisions of the **Capitol Police, Missouri Highway Patrol** and the **Missouri Water Patrol** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this bill. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. Any increase in this money distributed to schools becomes a deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula with a proration factor of 1.00.

ASSUMPTION (continued)

Oversight assumes any reduction in the foundation formula resulting from increased fines collected at the local level and those fines received at the local level will offset each other.

Officials from the **Office of the Secretary of State - State Library** state that most libraries experience some intentional damage to library materials, but figures on numbers or value of damaged items is not readily available. To construct an estimate, libraries were asked to send in information about damaged library materials. Based on responses from several libraries of different sizes, a projection of annual damage was assigned to each public library based on volume of circulation, ranging from \$50 per year for small libraries to \$15,000 per year for the two largest libraries. Total damage is estimated at over \$175,000 per year.

Libraries do currently attempt to collect payments for damaged items, if a person responsible for the damage can be identified. If persons refuse to pay, the library may currently either withhold library use from the person, or turn the issue over to a collection agency. This bill will help libraries to collect these payments in the most egregious cases.

Since many items are damaged while inside the library, or have the damage discovered after the item is checked in, it is estimated that in at least half the instances of damage the library will be unable to collect payments from an individual for the damaged item. So, the amount shown as recovered by the library districts is shown at \$87,500, or half the estimated amount of loss.

Therefore, the State Library estimates a net loss to local libraries of \$87,500 resulting from the cost to replace damaged library materials (\$175,000) and the payments for damaged library materials (\$87,500).

Oversight assumes the proposal would not hinder the libraries in the collection of restitution for damaged items. To the contrary, violators facing more severe penalties (from higher class offenses changed in the proposal) may be less likely to deface library property in the first place and if caught, may be more willing to pay restitution to the library in lieu of facing criminal charges. Therefore, Oversight assumes the proposal would not result in a loss to local libraries.

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Office of the State Public Defender (SPD)** state this proposed legislation will create the new crimes of theft or destruction of documents. New crimes create new cases for the SPD. The exact number of cases affected is too uncertain to provide a definitive dollar amount of fiscal impact. Nevertheless, there will be some impact.

ASSUMPTION (continued)

Since the amount of impact is so uncertain, the SPD cannot assume existing staff will be able to provide representation in these cases. However, once the true 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.

Officials from the **Office of Prosecution Services** did not respond to our request for fiscal impact.

Oversight assumes prosecutors could absorb the costs resulting from this proposal with existing resources.

Officials from the **Department of Corrections (DOC)** state this bill revises various statutes relating to theft or destruction of documents. Penalty provisions are for up to a class C felony dependent on the value of the appropriated materials.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

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 (FY03 average of \$38.10 per inmate, per day or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

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. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
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GENERAL REVENUE FUND

<u>Costs – Department of Corrections</u> Incarceration/probation costs	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
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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>)
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<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

This proposal makes it a class C felony to steal a government document or any document of historical significance. Under current law, these offenses are class A misdemeanors.

The proposal makes the crime of library theft a class A misdemeanor when the value of the stolen property is less than \$500. Under current law, this offense is a class C misdemeanor. The offense is a class C felony if the property is valued at more than \$500 and a class B felony when the property is valued at more than \$25,000. The proposal makes the defacing of library materials a class A misdemeanor.

The proposal also amends the crime of tampering with a public record and increases the penalty from a class A misdemeanor to a class D felony. A person commits the crime when they leave a position as a government employee and knowingly fail to deliver to a successor all of the office's records.

RAS:LR:OD (12/02)

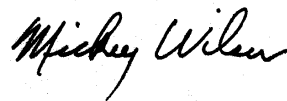
DESCRIPTION (continued)

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

Coordinating Board of Higher Education
Office of the State Courts Administrator
Department of Elementary and Secondary Education
Department of Corrections
Department of Public Safety
 Missouri Highway Patrol
 Missouri Water Patrol
 Capitol Police
Office of the Secretary of State
 Records Services
 State Library
Office of the State Public Defender
Department of Transportation

NOT RESPONDING: Office of Prosecution Services

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
February 24, 2004