

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0830-08  
Bill No.: SS for SCS for HCS for HB 353 with SA 1, SA 2, SA 3, SA 5, SA 6, SA 1 to SA 6, SA 7, SA 8, SA 9, SA 10, SA 12, SA 13, SA 14, SA 16, SA 17, & SA 18  
Subject: Criminal Procedure; Probation and Parole  
Type: Original  
Date: May 11, 2005

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
General Revenue	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(More than \$100,000) to Unknown</b>	<b>(More than \$100,000) to Unknown</b>	<b>(More than \$100,000) to Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 28 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
State School Moneys*	\$0	\$0	\$0
Missouri Office of Prosecution Services**	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds* **</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Offsetting savings and losses to State School Moneys Fund.

\*\* Offsetting revenues and costs of more than \$700,000 per fiscal year in the Missouri Office of Prosecution Services Fund.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Local Government***</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

\*\*\* Local School Districts would have offsetting income from increase fines and losses from reduced distribution from State School Moneys Fund. Offsetting revenues and costs of more than \$100,000 to county Prosecuting Attorneys.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of the Governor, Coordinating Board for Higher Education, Office of Administration, Department of Transportation, Department of Mental Health, Department of Natural Resources, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Social Services, Department of Public Safety – Capitol Police, – Missouri State Water Patrol, – Division of Fire Safety, Department of Conservation, Missouri House of Representatives, and the Missouri Senate** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (SS for SCS for HCS for HB 353, LR # 0830-08), officials from the **Department of Economic Development, State Treasurer's Office, and Parkway Public Schools** assumed the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (SCS for HCS for HB 353, LR # 0830-07), officials from the **Department of Agriculture, Boone County Sheriff's Department, Kansas City Police Department, and Southwest Missouri State University** assumed the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (Perfected HCS for HB 353, LR # 0830-05), officials from the **Office of Prosecution Services** assumed the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would modify numerous laws relating to crimes and criminal procedure and create a significant number of new crimes. Depending on the degree of enforcement, CTS assumes there will be an increase in the workload of the courts. Any significant increase will be reflected in future budget requests.

Officials from the **Office of the Attorney General (AGO)** assume any additional litigation arising from this legislation could be absorbed within existing resources. However, in the event of multiple lawsuits filed relating to this legislation, the AGO may seek additional appropriations to adequately represent the state in these cases. While this proposal contains a number of other changes to criminal law, AGO assumes any additional appeals generated from these changes can be absorbed within existing resources.

ASSUMPTION (continued)

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.

In response to a previous version of the proposal (SCS for HCS for HB 353, LR # 0830-07), officials from the **Department of Corrections (DOC)** assumed the proposal creates and enhances many crimes at various levels. The cumulative effect is expected to have a significant but unknown fiscal impact on the DOC.

The DOC cannot currently predict the number of new commitments which may result from the creation/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.

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 (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 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).

At this time, 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 incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of \$100,000 per year.

Officials from the **Office of the Secretary of State (SOS)** assume the proposal would give the Department of Public Safety, Department of Health and Senior Services, Department of Elementary and Secondary Education, Department of Corrections, Peace Officers Standards and Training Commission, Missouri Gaming Commission, Office of State Courts Administrator, Department of Economic Development, Department of Social Services, Missouri Lottery, Department of Agriculture, and the Office of the Attorney General the authority to adopt rules to implement the provisions of this act. These rules would be published in the Missouri Register and the Code of State Regulations. These rules could require as many as 68 pages in the Code of State Regulations and half again as many pages in the Missouri Register, as cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the Missouri Register is \$23 and the estimated cost of a page in the Code of State Regulations is \$27. Based on these costs, the estimated cost of the proposal is \$4,182 in FY 06 and unknown in subsequent years. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Removes Requirement that Judge in a DWI Case be an Attorney (§§302.321, 302.541, 577.023, 577.500)

Officials from the **Department of Revenue (DOR)** assume they will be required to modify existing automated program edits in order to no longer edit to determine if the judge hearing certain cases is an attorney. These programming modifications will be accomplished with existing resources within the DOR.

ASSUMPTION (continued)

Reimburse Law Enforcement Agencies for Costs Associated with Prostitution-Related Arrests (§488.5360)

In response to a previous version of the proposal (SCS for HCS for HB 353, LR # 0830-07), officials from the **Boone County Sheriff's Department** assumed the proposal would result in additional revenues of approximately \$100 per fiscal year, based on two prostitution bookings in 2004. Officials assume the proposal would also result in increased costs of an unknown amount from the manpower required to create the required documentation.

**Oversight** assumes the proposal could result in increased revenues to local law enforcement agencies in the form of cost reimbursement. Also, the proposal could result in increased administrative costs to local law enforcement agencies. Oversight assumes the increased revenues would exceed the increased costs, resulting in net revenues to local law enforcement agencies.

Passing Bad Checks (§570.120)

Officials from the **Office of State Courts Administrator (CTS)** assume the proposal would increase the penalty for writing a bad check, and increase the costs assessed by the prosecutor. Since all moneys are paid to the prosecutors, CTS would not anticipate a fiscal impact on the judiciary.

In response to a similar proposal from the current session (SB 425, LR # 1739-01), officials from the **Office of Prosecution Services** deferred to the Greene County Prosecutor to estimate the fiscal impact for prosecutors.

In response to a similar proposal from the current session (SB 425, LR # 1739-01), officials from the **Greene County Prosecutor's Office** assumed they would potentially see an increase of \$113,034 in 2006 over the \$134,371 they earned in fees in 2004, making the fees received in 2006 total \$247,405. Officials assume the actual increase would be less than this maximum, as they anticipate bad checks submitted to prosecuting attorney offices to decline in the next few years due to the new federal banking rules and the advent of electronic devices which allow businesses to automatically transfer money. The increase will vary by county.

On behalf of the Office of Prosecution Services, the Greene County Prosecutor estimates a total of \$875,000 yearly, or an increase of \$700,000. This assumes collections will stay at their current rate.

ASSUMPTION (continued)

**Oversight** assumes the additional administrative handling costs collected by prosecutors statewide would exceed \$100,000 per year. In addition, Oversight assumes the costs collected by prosecutors for deposit into the Missouri Office of Prosecution Services Fund would exceed \$700,000 per year.

Exonerated by DNA Testing (§650.055)

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the impact for the proposed legislation is unknown. Currently, the DNA Profiling fund is only generating \$80,000 to \$100,000 per month of the anticipated \$150,000 per month that it was originally thought it would collect. Because of this circumstance and the cost to run the DNA Profiling program, there would not be a ‘remaining’ balance in the DNA Profiling fund to pay the cost of restitution. It is not expected that there would be any type of lapse in the fund on a yearly basis because it would take all of the money being collected to run the DNA Profiling program. There is no way to know, in the years a balance could possibly exist, how much would be available to pay restitution. There is also no way to determine how many people would be affected in the future.

**Oversight** assumes the proposal does not create any new revenues or costs to the DNA Profiling Analysis Fund. The proposal caps the amount of restitution that a person can receive each year after being exonerated by DNA testing to \$36,500 until he or she receives the full amount he or she is owed. Therefore, Oversight assumes there will be no impact to the DNA Profiling Analysis Fund.

Theft of Cable Television Service (§570.300)

In response to a similar proposal from the current session (SB 23, LR # 0053-01), officials from the **Office of State Public Defender (SPD)** assumed existing staff could provide representation for those few cases arising where indigent persons were charged with the criminal use of property by operating audiovisual recording devices while in a movie. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

ASSUMPTION (continued)

Distribution of Controlled Substance near a Park (§195.216)

In response to a similar proposal from the current session (HB 547, LR # 1560-01), officials from the **Office of the State Public Defender (SPD)** assumed existing staff could provide representation for the enhancement of the penalty for distribution of a controlled substance near a park, making it a class A felony, in those few cases arising where indigent persons were charged. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

Crimes of stealing, tampering, and receiving stolen property (§§559.105, 569.080, 569.090, 570.040, 570.080)

In response to a similar proposal from the current session (HB 498, LR # 0788-02), officials from the **Office of State Public Defender (SPD)** assumed existing staff could provide representation for those few cases arising from the revision of various laws relating to stealing, receiving stolen property, and tampering and the requirement of specific type of restitution in certain types of cases, where indigent persons were charged. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

24 hour hold without being charged with an offense and held by warrant (§544.170)

In response to similar proposals from the current session (SB 520, LR # 1751-01 and HB 140, LR # 0667-01), officials from the **Office of the State Public Defender (SPD)** assumed existing staff could provide representation for those few cases arising where indigent persons were charged from a proposed law requiring that a person arrested and confined without a warrant be discharged from custody within 32 hours unless charged. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

ASSUMPTION (continued)

In response to a similar proposal from the current session (SB 520, LR # 1751-01), officials from the **Jefferson City Police Department** assumed a savings would result due to personnel scheduling flexibility provided by an extension of the timeframe within which the probable cause warrant application is prepared.

SA 6 with SA 1 to SA 6 – Bifurcated Trial (§557.036)

Officials from the **Office of Attorney General (AGO)** assume the amendment could result in additional litigation in cases where the judge imposes the death penalty.

**Oversight** assumes the AGO could absorb the cost of the proposed legislation within existing resources. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriation process.

SA 7 – Invasion of Privacy (§565.252)

In response to a similar proposal from the 2004 Session (SB 1354, LR # 4688-01), officials from the **Department of Corrections (DOC)** assumed this proposal modifies the provisions of invasion of privacy. Penalty provisions, the component of the bill to have potential fiscal impact for DOC, range up to a class C felony.

Currently, the DOC cannot predict the number of new commitments which may result from the 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.

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, DOC assumes the impact would be less than \$100,000 per year.

ASSUMPTION (continued)

SA 9 – Alternative Dispute Resolution Fund (§488.2350)

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would allow certain local courts (those that have not established a family court) to impose a \$30 surcharge on some cases and use the proceeds to provide alternative dispute resolution (ADR) services.

Because the legislation is permissive, CTS has no way of knowing how many courts would assess the surcharge and establish a program. Consequently, CTS is unable to estimate the amount of money that might be collected or the number of ADR specialists that might be hired. CTS assumes there would be no cost to General Revenue.

**Oversight** assumes the proposal is permissive and, therefore, assumes the proposal would have no fiscal impact. However, if the local courts choose to impose a surcharge and provide ADR services, they may experience a fiscal impact. Since the language is permissive, Oversight assumes no impact.

SA 10 – State Legal Expense Fund (§105.711)

Officials from the **Office of the Attorney General (AGO)** assume the cost of SA #10, which exposes the Legal Expense Fund to additional potential liability, can be absorbed with existing resources. However, if multiple proposals provide a similar expansion of potential liability under the LEF, the AGO may request additional appropriations to handle the additional caseload.

SA 14 – Tampering/Property Damage (§§569.080, 569.100)

In response to a similar proposal from the current session (SB 96, LR # 0197-01), officials from the **Department of Corrections (DOC)** assumed they cannot predict the number of new commitments which may result from the creation 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.

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 (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 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).

ASSUMPTION (continued)

The DOC is unable to determine 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.

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.

SA 16 – Restitution to Crime Victim (Section 1, Section 2)

Officials from the **Office of State Courts Administrator (CTS)** assume the amendment would require courts to conduct a hearing, upon a finding or plea of guilty, to determine the amount of restitution due a victim. CTS assumes this will definitely increase the amount of court time required for many criminal cases, but CTS has no way of quantifying that increase at this time. Any significant increase in the workload of the courts will be reflected in future budget requests.

In response to a similar proposal, officials from the **Department of Corrections (DOC)** assumed they cannot predict the number of new commitments which may result from the 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.

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 (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 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).

ASSUMPTION (continued)

At this time, 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.

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, DOC assumes the impact would be less than \$100,000 per year for their agency.

SA 17 – Sentencing Provisions for Repeat Offenders

Officials from the **Office of the Attorney General (AGO)** assume there will be additional litigation generated by SA #17, which changes the sentencing provisions for repeat offenders. While the additional cost of this litigation is unknown, the AGO assumes that if fewer than 10 new cases are generated, costs can be absorbed, if 10-25 new cases are generated, the AGO would anticipate a need for 1 new AAG, if more than 25 new cases are generated, the AGO would anticipate a need for 2 new AAGs.

**Oversight** assumes the AGO could absorb the cost of the proposed legislation within existing resources. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriation process.

L.R. No. 0830-08

Bill No. SS for SCS for HCS for HB 353 with SA 1, SA 2, SA 3, SA 5, SA 6, SA 1 to SA 6, SA 7, SA 8, SA 9, SA 10, SA 12, SA 13, SA 14, SA 16, SA 17, & SA 18

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<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> – Reduced appropriations to State School Moneys Fund	Unknown	Unknown	Unknown
<u>Costs</u> – Department of Corrections Incarceration/probation costs	(More than <u>\$100,000</u> )	(More than <u>\$100,000</u> )	(More than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(More than \$100,000) to Unknown</u></b>	<b><u>(More than \$100,000) to Unknown</u></b>	<b><u>(More than \$100,000) to Unknown</u></b>
<b>STATE SCHOOL MONEYS FUND</b>			
<u>Savings</u> – Reduced distributions to local school districts	Unknown	Unknown	Unknown
<u>Losses</u> – Reduced appropriations from General Revenue Fund	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

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FISCAL IMPACT - State Government  
(continued)

FY 2006  
(10 Mo.)

FY 2007

FY 2008

**MISSOURI OFFICE OF  
PROSECUTION SERVICES FUND**

Revenues – Office of Prosecution  
Services

From fees collected

More than  
\$583,333

More than  
\$700,000

More than  
\$700,000

Costs – Office of Prosecution Services

Assisting county prosecuting attorneys

(More than  
\$583,333)

(More than  
\$700,000)

(More than  
\$700,000)

**ESTIMATED NET EFFECT ON  
MISSOURI OFFICE OF  
PROSECUTION SERVICES FUND**

\$0

\$0

\$0

FISCAL IMPACT - Local Government

FY 2006  
(10 Mo.)

FY 2007

FY 2008

**POLITICAL SUBDIVISIONS**

Revenues – School Districts

Incomes from fines

Unknown

Unknown

Unknown

Revenues – County prosecuting attorneys

Administrative handling costs

More than  
\$100,000

More than  
\$100,000

More than  
\$100,000

Revenues – Law Enforcement Agencies

Cost reimbursement

Unknown

Unknown

Unknown

Losses – School Districts

Reduced distribution from State  
School Moneys Fund

(Unknown)

(Unknown)

(Unknown)

Costs – County prosecuting attorneys

(More than  
\$100,000)

(More than  
\$100,000)

(More than  
\$100,000)

**ESTIMATED NET EFFECT ON  
POLITICAL SUBDIVISIONS\*\*\***

Unknown

Unknown

Unknown

\*\*\* Local School Districts would have offsetting income from increase fines and losses from reduced distribution from State School Moneys Fund. Offsetting revenues and costs of more than \$100,000 to county Prosecuting Attorneys.

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 numerous changes in the statutes relating to crimes and criminal procedure including:

Remove a provision requiring defendants to be sentenced according to the law in place at the time of the sentencing, rather than the law as it existed at the time of the crime, whenever the change in law reduced the penalty for the offense. (§1.160)

Authorize the Missouri Capitol Police to arrest a person anywhere in Cole County, when there is probable cause to believe the person committed a crime within capitol police jurisdiction or when a person commits a crime in the presence of an on-duty capitol police officer. (§8.177)

Defines the term “MULES” – the Missouri Uniform Law Enforcement System. (§43.010)

The Superintendent of the Highway Patrol is responsible for establishing policies and procedures, in cooperation with law enforcement, to protect the integrity of the MULES system. (§43.120)

Creates the Governor’s Security Division within the Highway Patrol. The division will provide transportation and security for the Governor and other public officials. (§§43.300 to 43.330)

Requires the Department of Public Safety to establish rules and regulations to implement Sections 43.500 to 43.543, which includes provisions relating to criminal history. (§43.509)

Law enforcement agencies may perform a criminal history review for only open records through the MULES system for the purpose of hiring municipal or county employees. The requesting entity must pay a fee to the central repository. The requesting entity would not be the law enforcement agency unless the request is made by the law enforcement agency for purposes of hiring law enforcement personnel. Cities and counties would be allowed to enact ordinances requiring fingerprints of job applicants or licensees in certain occupations for the purpose of conducting a criminal record review. (§43.535)

Expand the list of those entities required to send fingerprints of job applicants to MULES. (§43.543)

DESCRIPTION (continued)

Regulates sexually-oriented businesses (§§67.2540, 67.2546, 67.2548, 67.2552, 311.488, 567.080, & 573.503):

- Defines numerous terms associated with sexually oriented businesses. The term “sexually oriented business” includes any adult cabaret or any business which offers its patrons goods of which a substantial or significant portion are sexually-oriented material. No building, premises, structure, or other facility that contains any sexually oriented businesses shall contain any other kind of sexually oriented business.
- Prohibits the exhibition of films, videos, DVDs, or other video reproductions depicting specified sexual activities in viewing rooms at sexually oriented businesses unless the viewing room is visible from a continuous main aisle in the sexually-oriented business. A viewing room cannot be obscured by any curtain, door, or other enclosure. No viewing room can be occupied by more than one individual at a time and there shall be no aperture between viewing rooms which is designed or constructed to facilitate sexual activity between persons in other rooms. A person who violates this provision is guilty of a class A misdemeanor.
- If a sexually oriented business allows specified criminal activity or specified sexual activity on the premises or otherwise fails to comply with these requirements, it shall be considered a nuisance and closed pursuant to Section 567.080, RSMo.
- Prohibits anyone under the age of 21 from being employed by a sexually-oriented business. Violation of this section is a class A misdemeanor.
- Class A misdemeanor for a person to knowingly and intentionally appear nude or depict, perform, or simulate specified sexual activities in a sexually oriented business. This section also makes it a class A misdemeanor for a person to knowingly or intentionally appear semi-nude unless the person is an employee who remains a specified distance away from the patrons and behind a railing.
- Class A misdemeanor for an employee, while semi-nude in a business, to solicit any pay or gratuity from a customer or for a customer to pay an employee while he or she is in a semi-nude state.

DESCRIPTION (continued)

- Class A misdemeanor for an employee, while in a semi-nude state, to touch a customer or for a person to knowingly allow a person under 21 on the premises except for those on the premises for maintenance, repair work, or delivery of items.
- Prohibits a sexually oriented business from being open between the hours of midnight and 10 a.m. on weekdays and Saturdays. These businesses will be closed on state holidays and Sundays.
- Explains that the purpose of this legislation is to protect public policy interests such as mitigating the adverse secondary effects of sexually oriented businesses, limiting harm to minors, and reduction of crime.
- Prohibits the Supervisor of the Division of Alcohol and Tobacco Control from issuing a liquor license to a sexually oriented business.
- Any room, building or other structure regularly used for lewdness and assignation purposes is a public nuisance. Currently, only those places where prostitution is conducted are considered public nuisances.
- Any person who establishes, maintains, uses, owns, or leases a place for lewdness, assignation, or prostitution is guilty of maintaining a nuisance. If convicted, a person will be by a fine of not more than \$1000 and/or a short jail sentence.
- An to enjoin such a nuisance may be brought if a lessee, sublessee employee or agent of the owner, assignee, or partner of the owner, knew the nuisance was being maintained. Currently, the law provides for such an injunction only if the owner knows of such activity.
- Class B misdemeanor for an adult cabaret or sexually oriented business employee to not complete a background check if required to do so by an order or ordinance. Currently, this section allows counties and St. Louis City to create an order or ordinance requiring employees of adult cabarets and sexually oriented businesses to complete background checks but there is no penalty for failing to do so.

Prohibits a person from qualifying as a candidate for any public elective office who has been convicted of, or pled guilty to, any felony or misdemeanor under the laws of the United States. (§115.348)

DESCRIPTION (continued)

Add additional drugs to the list of controlled substances. (§195.017)

Make it a crime to distribute a controlled substance near child care facilities or long-term care facilities. (§195.214)

Creates the crime of distribution of a controlled substance within 2,000 feet of a park and makes the crime a class B felony. (§195.216)

Removes the Corrections Officer Certification Commission's authority over jailers. (§217.105)

In the event a parolee is transferred to another probation and parole officer, the written record of the former officer shall be given to the new officer. (§217.705)

The board of probation and parole shall require any individual, who has pleaded guilty to or is found guilty of two or more sexual offenses against a minor under Chapter 566, RSMo, that are classified as a felony or an unclassified offense with a sentence of one year or longer, to wear a remote electronic surveillance device as a condition of his or her parole. The board shall require the parolee to wear the device for the entire duration of the parole period. The department of public safety shall promulgate rules and regulations to effectuate the provisions of this section, including, but not limited to, procedures for the placement of electronic surveillance devices on parolees and monitoring of parolees. (§217.735)

Add failure to register as a sex offender to those supervised by Probation and Parole. (§217.750)

Removes the requirement that the judge be an attorney in certain traffic cases. (§§302.321 & 302.541)

Failure to yield to an emergency vehicle would be a class C misdemeanor (is currently a class B misdemeanor). (§304.022)

Add urine tests to the chemical tests for BACs involving vessel operation. (§§306.112, 306.114, 306.116, 306.117, 306.119)

Increases from \$200 to \$500 the damage amount that requires the filing of an accident report when there is damage to a water craft. (§306.140)

DESCRIPTION (continued)

Prohibits the use of any device that, when activated, allows a watercraft's muffler to exceed the maximum decibel levels allowed by law. (§306.147)

Currently, any pawnbroker licensed after August 28, 2002 must meet certain requirements. This proposed legislation applies to any pawnbroker licensed under Section 367.043. (§367.031)

This act relates to the use of personal information. Currently, Section 407.1355, RSMo, prohibits a person or entity from publicly posting an individual's Social Security number. This act redefines "public post" to include intentionally communicating or making an individual's social security number available to his or her co-workers. This act also prohibits requiring an individual to use his or her social security number as an employee number for employment-related activities. Currently, subsection 1 of this section, which includes these provisions of the act, applies to the use of Social Security numbers on or after July 1, 2006. This act makes the subsection effective on the same date as the act. This act also changes the penalty for identity theft based upon the amount of credit, money, goods, or services stolen or appropriated. Currently, identity theft which results in the theft or appropriation of credit, money, goods, services, or other property worth more than \$500 but no more than \$10,000 is a class C felony. This act makes identity theft involving more than \$500 but no more than \$5,000 a class C felony. Currently, identity theft which results in the theft or appropriation of credit, money, goods, services, or other property worth more than \$10,000 but no more than \$100,000 is a class B felony. This act makes identity theft involving more than \$5,000 but no more than \$50,000 a class B felony. Currently, identity theft which results in the theft or appropriation of credit, money, goods, services, or other property worth more than \$100,000 is a class A felony. This act makes identity theft involving more than \$50,000 a class A felony. This section of the act has an emergency clause. (§407.1355)

Modifies procedures when a municipal judge becomes absent, sick or disqualified. For municipal courts with more than one judge, the presiding judge of the municipal court may request the presiding judge of the circuit court to designate a special municipal judge until the absence ceases. Alternatively, the presiding judge of the municipal court may issue designate a procedure where the municipal court administrator or court clerk may request the presiding judge of the circuit court to designate a special municipal judge. In the absence of multiple judges or a written procedure, the mayor or chairman of the board of trustees may make such request of the presiding judge of the circuit court. If it is impossible for the mayor or chairman to reach the presiding judge of the circuit court, the mayor or the chairman may designate a special municipal judge until the presiding judge of the circuit court can designate a special municipal judge. (§479.230)

DESCRIPTION (continued)

Requires that a search warrant must command that the described item be seized, photographed, or copied within 10 days and that such items may be filed with the issuing court, instead of the circuit clerk. (§542.276)

Allows law enforcement agencies to hold a suspect arrested without a warrant for up to 24 hours before charging the person with a crime. Currently, suspects can be held for 24 hours when arrested for a class A felony and 20 hours for lesser offenses. (§544.170)

The sheriff granting a change of venue and the sheriff of the county into which the cause is removed, may agree as to which county's jail will house the defendant. If they don't agree, the defendant will be housed in the county into which the cause is removed. (§545.550)

Sets the statute of limitation for arson at five years. (§556.036)

Eliminates bifurcated trials in most instances. (§557.036)

Removes the provision allowing first-time offenders convicted of a nonviolent class C or D felony to petition the court for early release after serving at least 120 days. (§558.016)

Provide that Probation and Parole would have discretion to release certain individuals prior to completion of the sentence. (§558.019)

Allow the court to extend probation for certain probation violators by one year. (§§559.016, 559.036)

Allows the court to order restitution be paid to the victim of tampering or auto theft, including the victim's insurance deductible payment, towing and storage fees, and any reasonable expenses incurred by the victim in prosecuting the offense. Prohibits the court or the Board or Probation and Parole from releasing a person early from probation and parole if the person has failed to pay restitution. (§559.105)

Requires electronic monitoring of sex offenders. (§559.106)

Prohibits probation from being granted to offenders convicted of child molestation in the first degree when it is classified as a class A felony. (§559.115)

DESCRIPTION (continued)

Authorizes municipal courts to contract with a public entity or employ a person to serve as the city's probation officer. Currently, such courts may only contract with a private entity to provide probation services. Persons found guilty of municipal ordinances and placed on probation will be required to pay a service fee to the court to pay for the probation services. Currently, only cities which do not have probation services for persons convicted of ordinance violations may contract with private entities to provide probation services. This act authorizes any city to contract with a private or public entity or employ a probation officer to provide probation services. Any city that does not have probation services or that contracts out those services with a private entity, may continue to contract with such entity or employ any qualified person and contract with the municipal division. (§559.607)

Currently, Sections 565.081, 565.082, 565.083, RSMo, criminalize assault of a law enforcement officer or emergency personnel in the first, second, and third degree respectively. This act adds probation and parole officers to these sections. (§§565.081, 565.082, & 565.083)

Modifies the wording in Section 566.083.1(1), RSMo, so that the qualification of a person acting "knowingly" applies to both required elements, which includes knowingly exposing oneself to a child under the age of 14 under circumstances in which he or she knows the conduct is likely to cause affront or alarm to the child. This section of the act has an emergency clause. (§566.083)

Creates the crime of sexual contact with a student which is a class D felony. The crime is committed when a teacher has sexual contact with a student on school property. (§566.086)

Expand the crimes of endangering the welfare of a child. (§§568.045, 568.050)

Adds starting a fire while producing methamphetamine to arson I. (§569.040)

Makes evidence of prior acts of tampering admissible to prove the requisite knowledge or belief in a current tampering case. The act also makes tampering in the second degree a class C felony when the person has a prior conviction for tampering in the first or second degree, auto theft, or receiving stolen property. (§§569.080, 569.090)

Increases the penalties on stealing related offenses. (§570.030)

Makes auto theft a class B felony if a person has two prior convictions for stealing-related offenses. The person only has to have received a sentence of 10 days, rather than actually serving the sentence. (§570.040)

DESCRIPTION (continued)

Makes evidence of prior acts of receiving stolen property admissible to prove the requisite knowledge or belief in a current receiving of stolen property. (§570.080)

A person would be guilty of passing a bad check with any other form of presentment involving the transmission of account information, not just a check. Under this act, passing a bad check is a class A misdemeanor unless certain circumstances exist, including when the issuer has no account with the drawee or if there was no such drawee at the time the check was issued. In such cases, passing bad checks is a class C felony. Currently, a person is guilty of a class D felony under such circumstances.

A prosecuting attorney who takes an action under this section collects an administrative handling cost from the issuer in an amount of \$25 for checks of less than \$100, \$50 for checks between \$100 and \$250, and \$50 plus an additional 10% fee of the face amount for checks of \$250 or more, with a maximum fee being \$75. Currently, the amount of the administrative handling cost varies depending on the amount of the check, however, the scale differs from the one in this act.

In addition to the administrative handling cost, a prosecuting attorney shall collect \$5 per check for deposit into the Missouri Office of Prosecution Services Fund. Under this act, the money can be used for lawful expenses incurred by the attorney in operation of his or her office. This is in addition to the current allowable uses which include, but are not limited to, office supplies, postage, witness preparation, and additional staff. Currently, \$1 is collected for the fund.

This act removes the provision which states that in all cases where a prosecutor receives notice of a violation with respect to a payroll check or order, if he or she finds a violation, shall file an information or seek indictment within 60 days. (§570.120)

Changes the property value thresholds for various crime levels for the crime of financial exploitation of an elderly or disabled person. (§570.145)

Change the value thresholds for various crime levels for the crime of identity theft. This section of the act has an emergency clause. (§570.223)

Modifies the crime of illegal copying and distribution of sound recordings by lowering the threshold for a felony from 1,000 illegal copies to 100 illegal copies. (§570.255)

DESCRIPTION (continued)

Expands the crime of theft of cable service to include when a person knowingly attempts to tamper with any cable television equipment which results in the disruption or unauthorized use of a cable television system. (§570.300)

Adds detention or stop to crime of resisting or interfering with an arrest. (§575.150)

Creates the crime of failure to provide identification to a law enforcement officer. A person commits the crime when he or she refuses to provide their name and address to a law enforcement officer or provides a false name or address during a lawful stop or detention. (§575.185)

Creates the crime of tampering with electronic monitoring equipment, a class C felony. (§575.205)

Creates the crime of violating a condition of lifetime supervision, a class C felony. (§575.206)

Removes the language stating that a person commits the crime of tampering with a witness “in an official proceeding.” (§575.270)

A person commits the crime of misuse of information if he or she knowingly obtains or recklessly discloses information from MULES or NCIC for private or personal use. (§576.050)

Removes the requirement that the judge be an attorney in certain traffic cases. (§§577.023 & 577.500)

Allows evidence of refusal of arrest to be evidence in a proceeding about assault of a law enforcement officer. (§577.041)

Creates the crimes of possession and distribution of prescription medication on school property without a valid prescription. This act makes possession under this section a class C misdemeanor and distribution a class B misdemeanor. (§§577.625 & 577.628)

Makes it a class A misdemeanor to operate a video camera within a motion picture theater without the consent of the theater owner. A second or subsequent offense is a class D felony. The owner of the movie theater is exempt from civil liability for detaining a person suspected of the offense, as long as the detention is reasonable. (§578.500)

DESCRIPTION (continued)

Provide for victim notification of any decision by a circuit court presiding over release under Section 558.016, RSMo, or Section 217.362, RSMo. (§595.209)

A victim of a sexual offense would have the right to testify at the parole hearing. This section of the act has an emergency clause. (§595.210)

Caps the amount of restitution that a person can receive each year after being exonerated by DNA testing to \$36,500 until he or she receives the full amount he or she is owed. (§650.055)

SA 2 – This act pertains to identity theft. The act first prohibits the sharing of personal financial information with any unauthorized person unless the individual consents to the share. The act requires a business or person that conducts business in the state that owns or licenses computerized data, to disclose any breach of security of that data, to any citizen of this state whose information may, or may very well have been, acquired by an unauthorized person. Notification requirements are laid out in the act. The act allows for individuals to place security alerts and security freezes on their credit report, notifying any recipient of the report that the individual may have been a victim of identity theft, and prohibiting the release of the individual's information without the express consent of the consumer. The act details the obligations of consumer reporting agencies in response to this option. The act has a penalty provision for violations – class A misdemeanor, fines up to \$1,000 or imprisonment for up to one year. (§§407.1400, 407.1403, 407.1406, 407.1409, 407.1412, 407.1418, 407.1421)

SA 3 – The proposal would grant a license necessary to function as a reserve peace officer to persons commissioned and serving as a reserve peace officer within a county of the 1<sup>st</sup> classification on August 28, 2001, who previously completed a minimum of 160 hours of training. (§590.040)

SA 5 – The proposal would give the person filling a prescription for a Schedule V controlled substance the option to retain the date of filling and identity of the dispenser as electronic prescription information. The proposal would allow the supply limitations to be increased up to three months if the physician indicates via telephone, facsimile, or electronic communication to the pharmacy for entry on or attached to the prescription form the reason for requiring the larger supply. (§§195.060, 195.080)

DESCRIPTION (continued)

SA 6 with SA 1 to SA 6 – The proposed legislation would eliminate the bifurcated jury sentencing process in which an offender is tried and then sentenced in separate phases of a trial. The court would be required to instruct the jury on the range of authorized punishment, and the jury would be required to assess punishment as a part of their verdict upon a finding of guilt. If the court would find that the jury cannot agree on the punishment, the jury could return its verdict without assessing punishment, and the court would assess punishment, except that the court shall not assess capital punishment. (§557.036)

SA 7 – A person would commit the crime of invasion of privacy, a class D felony, by knowingly videotaping, filming, photographing, or otherwise recording another person, in a secret or surreptitious manner, under or through the clothing. (§565.252)

SA 8 – Regulate international marriage brokers. It would be a class D felony to willfully provide incomplete or false information pursuant to this section. Failure to provide the information and notice required pursuant to this section would be a class D felony. (§§566.200, 566.221, 566.223)

SA 9 – The proposed legislation creates a new section allowing any circuit court that has not established a family court to assess a thirty-dollar surcharge in all proceedings that would otherwise be under the jurisdiction of a family court, such as actions involving dissolution or annulment of marriage, legal separation, maintenance, child custody and modification, adoption, juvenile proceedings, establishment of parent and child relationship proceedings, and child support enforcement. The surcharge will not be charged when no court costs are otherwise required, or in any proceeding when costs are waived or to be paid by the state, county, or municipality. The surcharge will not be charged to a government agency or against the petitioner for adult abuse and child protections actions, but may be charged to the respondent in such actions. The funds collected from the surcharges will be deposited in an alternative dispute resolution fund. The fund shall be used to provide alternative dispute resolution services to those parties in the sort of proceedings mentioned above and to fund a specialist to develop and implement an alternative dispute resolution program. Circuit courts may enter into a multi-circuit agreement to jointly hire the specialist and to fund the specialist from the various dispute resolution funds. From the funds collected under this act, each circuit or county where an alternative dispute resolution specialist has been appointed shall reimburse the state for actual costs of that portion of the salaries of such a specialist. (§488.2350)

DESCRIPTION (continued)

SA 10 – Would allow certain health care providers under formal contract to provide services to patients or inmates at a county jail on a part-time basis to receive payment from the State Legal Expense Fund. (§105.711)

SA 13 – Would allow a person applying to register to vote to present a copy of a birth certificate, a Native American tribal document, or other proof of US citizenship as identification. (§§115.135, 115.155, 115.160, 115.631)

SA 14 – Increases punishment for second and third or subsequent offenses of tampering in the first degree. Would also add knowingly damaging a motor vehicle while breaking into the vehicle for the purpose of stealing the vehicle. (§§569.080, 569.100)

SA 16 – Would allow the court to include restitution to the victim as a condition of probation. Persons would not be granted parole unless full payment of restitution is made a condition of parole. (Section 1 and Section 2)

This act contains a severability clause for Sections 67.2540 to 67.2556 and Section 567.080.

This act contains an emergency clause for Sections 407.1355, 566.083, 570.223, and 595.210, RSMo.

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

Department of Agriculture  
Office of the Attorney General  
Office of the Governor  
Coordinating Board for Higher Education  
Office of Administration  
Office of State Courts Administrator  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Transportation  
Department of Mental Health  
Department of Natural Resources

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Bill No. SS for SCS for HCS for HB 353 with SA 1, SA 2, SA 3, SA 5, SA 6, SA 1 to SA 6, SA 7, SA 8, SA 9, SA 10, SA 12, SA 13, SA 14, SA 16, SA 17, & SA 18

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SOURCES OF INFORMATION (continued)

Department of Corrections  
Department of Health and Senior Services  
Department of Labor and Industrial Relations  
Department of Revenue  
Department of Social Services  
Department of Public Safety  
– Missouri State Water Patrol  
– Missouri State Highway Patrol  
– Division of Fire Safety  
– Capitol Police  
Missouri House of Representatives  
Department of Conservation  
Office of Prosecution Services  
Missouri Senate  
Office of the Secretary of State  
Office of the State Public Defender  
State Treasurer's Office  
Boone County Sheriff's Department  
Kansas City Police Department  
Jefferson City Police Department  
Parkway Public Schools  
Southwest Missouri State University



Mickey Wilson, CPA

Director

May 11, 2005