

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1534-02  
Bill No.: HCS for HB 640  
Subject: State Attorney General; Science and Technology  
Type: Original  
Date: April 5, 2005

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**FISCAL SUMMARY**

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

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>                      |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2006    | FY 2007    | FY 2008    |
|   |            |            |            |
|   |            |            |            |
| <b>Total Estimated<br/>Net Effect on <u>Other</u><br/>State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

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

| <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<br/>Net Effect on <u>All</u><br/>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>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

Officials from the **Office of Administration – Division of Information Services** and the **Department of Public Safety – Director’s Office** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of the Attorney General (AGO)** assume there may be new complaints filed alleging a violation of either 407.1144 or 407.1148. To the extent the number of new complaints is small, the AGO anticipates the costs can be absorbed.

ASSUMPTION (continued)

The AGO assumes to the extent there is a significant number of complaints or if the complaints filed involve a large number of e-mails that are alleged to violate the statute, the AGO anticipates that there will be additional costs to investigate and prosecute these cases. While the AGO cannot anticipate those costs, AGO assumes new costs would be less than \$100,000 per year. To the extent the AGO brings civil actions under this bill that result in civil penalties, AGO assumes those penalties would be deposited in the Merchandising Practices Revolving Fund and the AGO could seek appropriations from that fund to enforce this statute.

**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.

Officials from the **Office of the State Public Defender (SPD)** did not respond to Oversight's request for fiscal impact. However, in response to a previous version of the proposal (HB 640, LR # 1534-01), officials assumed existing staff could provide representation where indigent persons were charged with the revised law creating new crimes dealing with unsolicited commercial electronic mail. 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.

Officials from the **Department of Corrections (DOC)** assume this proposal creates a new 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 (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.

| <u>FISCAL IMPACT - State Government</u>                 | FY 2006<br>(10 Mo.)                     | FY 2007                                 | FY 2008                                 |
|---|---|---|---|
| <b>GENERAL REVENUE FUND</b>                             |   |   |   |
| <u>Costs – Department of Corrections</u>                |   |   |   |
| Incarceration/probation costs                           | (Less than<br>\$100,000)                | (Less than<br>\$100,000)                | (Less than<br>\$100,000)                |
| <b>ESTIMATED NET EFFECT ON<br/>GENERAL REVENUE FUND</b> | <b><u>(Less than<br/>\$100,000)</u></b> | <b><u>(Less than<br/>\$100,000)</u></b> | <b><u>(Less than<br/>\$100,000)</u></b> |
| <u>FISCAL IMPACT - Local Government</u>                 | FY 2006<br>(10 Mo.)                     | FY 2007                                 | FY 2008                                 |
|   | <b><u>\$0</u></b>                       | <b><u>\$0</u></b>                       | <b><u>\$0</u></b>                       |

FISCAL IMPACT - Small Business

The proposed legislation could have a fiscal impact on small businesses.

## DESCRIPTION

The proposed legislation would create the crime of aggravated fraudulent transmission of multiple unsolicited commercial e-mail messages, a class C felony. The Attorney General or any e-mail service provider that is injured by a violation of the provisions of the bill may bring a civil action against an offender. The civil action must be commenced at any time within two years of the transmission. The court may impose a civil penalty against the offender in an amount that is the lesser of \$25,000 for each day a violation occurs or not less than \$2 but not more than \$8 for each commercial e-mail message violation.

A person who sends unsolicited commercial electronic mail or maintains a database for that purpose would be required to provide a procedure that would allow recipients, at no cost to the recipient, to remove themselves from the sender's address list and restrict the sale or transfer of the recipient's electronic mail address information.

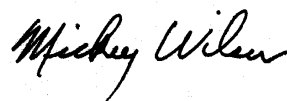
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

## SOURCES OF INFORMATION

Office of the Attorney General  
Office of Administration  
    – Division of Information Services  
Office of State Courts Administrator  
Department of Corrections  
Department of Public Safety  
    – Director's Office  
Office of Prosecution Services

## NOT RESPONDING

**Office of the State Public Defender**



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Director  
April 5, 2005

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