

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3147-01  
Bill No.: HB 995  
Subject: Children and Minors; Crimes and Punishment; Law Enforcement Officers and Agencies  
Type: Original  
Date: February 17, 2006

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
General Revenue	(\$632,550)	(\$1,969,731)	(\$3,246,116)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$632,550)</b>	<b>(\$1,969,731)</b>	<b>(\$3,246,116)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 13 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</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 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Local Government</b>	<b>(More than \$100,000)</b>	<b>(More than \$100,000)</b>	<b>(More than \$100,000)</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Office of the Governor, Department of Public Safety – Director’s Office, – Missouri State Highway Patrol, Department of Social Services, Boone County Sheriff’s Department, City of Kansas City, and the Springfield Police Department** 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 the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$1,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

ASSUMPTION (continued)

Officials from the **Office of the State Public Defender (SPD)** assume existing staff could not provide competent, effective representation for any cases arising where indigent persons were charged with tampering with electronic monitoring equipment, aiding a sexual offender, or the increased punishment for sexual offenders who offend against children less than twelve. SPD assumes this new crimes or increased penalties will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the **Department of Corrections (DOC)** assume the bill increases punishment for sexual offenders who offend against children less than twelve and creates new crimes of tampering with electronic monitoring equipment and aiding a sexual offender. DOC assumes the following impact:

§217.735 – Lifetime monitoring of offenders convicted of certain sex crimes against children under 14 and have a prior sex conviction

The proposal applies to offenses committed after August 28, 2006 and adds incest and child endangerment (when there is a sexual component) convictions when sexual intercourse occurred. These changes are not assessed to have any additional impact on the DOC.

§558.018 – Persistent Sex Offender and Predatory Sex Offenders

The proposal adds a statement that sentences may be greater but not in excess of authorized sentences. DOC assumes no impact assessed.

§559.106 – Lifetime monitoring for certain sex offenders receiving probation

The proposal adds any other offense that the Board of Probation & Parole is required to supervise for life to the list that the court must supervise for life when granted probation. DOC assumes this should not apply to offenders with life sentences and parole eligibility because statute allows early discharge.

ASSUMPTION (continued)

Lifetime monitoring is added to all the offenses listed below against children under 12. DOC assumes no impact is assessed within the 10-year budget horizon because the offenders will be serving 25 years.

§§566.030 & 566.060 – Forcible Rape 1<sup>st</sup> and Forcible Sodomy 1<sup>st</sup>

The proposal increases the penalty to life imprisonment and no parole eligibility until 25 years when the child was less than 12 years and the offender was 18 or older; no probation.

The national crime victimization survey excludes victims under 12 and so the estimate of victims who are under 12 is obtained from the DOC OPII Sex Offender Registration file that records the lowest age of a sex victim. The data indicates that 10% of forcible rape victims were under 12 and 40% of forcible sodomy victims were under 12. Only 2 of 37 offenders were under 18 at the time of the offense.

Prison Admissions

Both forcible rape and forcible sodomy are dangerous felonies and serve 85%. In FY05 there were 16 new admissions for forcible rape and 17 admissions for forcible rape. As the average time served is 14 years for forcible rape and 15 years for forcible sodomy, the impact of the legislation will not start until after the ten-year budget horizon.

Diverted Probation Sentences

In FY05 there were 5 probations for forcible rape and 3 for forcible sodomy, totaling 8, of which 2 (20%) will be against children under 12. These offenders will serve 25 years before release. In FY07 there will be 2 additional offenders in prison; 4 in FY08; 6 in FY09; 8 in FY10; 10 in FY11; 12 in FY12; 14 in FY13; 16 in FY14; 18 in FY15 and 20 in FY16.

§§566.032 & 566.062 – Statutory Rape 1<sup>st</sup> Degree and Statutory Sodomy 1<sup>st</sup> Degree

The minimum sentence increases to life imprisonment with parole eligibility after 25 years when the victim is less than 12 years and when the offender is 18 years or older and no probation. This increases the penalty only when the child is under 12.

From the DOC OPII sex offender registration file, the victim is under 12 in 38% of statutory rape and statutory sodomy cases and 7 offenders were under 18 at the time of the offense.

ASSUMPTION (continued)

Prison Admissions

In FY05 there were 160 new admissions for statutory rape 1<sup>st</sup> and statutory sodomy 1<sup>st</sup> by offenders 18 or older and of which 61 (38%) will be sentenced under the proposed statute. Offenders will serve 25 years instead of 9.2 years. The increase, however, will not begin until year 10 (FY16) when the expected impact is 61.

Diverted Probation in FY05

40 offenders 18 and over received probation for Statutory Rape 1<sup>st</sup> Degree and Statutory Sodomy 1<sup>st</sup> Degree in FY05 and they will serve 25 years before release. The impact will begin in FY07 and will increase for 25 years (total impact after 25 years is 1,000).

Combined Impact

In FY07 there will be 40 additional offenders in prison; 80 in FY08; 120 in FY09; 160 in FY10; 200 in FY11; 240 in FY12; 280 in FY13; 320 in FY14; 360 in FY15 and 461 in FY16.

§§566.034 & 566.064 – Statutory Rape 2<sup>nd</sup> and Statutory Sodomy 2<sup>nd</sup>

The proposal limits the age of the victim to 12-16. The legislative change is intended to reduce the plea-bargaining (prosecute/sentence for 2<sup>nd</sup> degree instead of 1<sup>st</sup> degree). DOC assessed no impact.

§566.067 – Child Molestation 1<sup>st</sup> degree

For offenders 18 or older and when the victim is under 12, the proposal increases the penalty to lifetime incarceration and no parole for 25 years. No probation. No change in sentencing if victim 12-14.

From the DOC OPII age of victim data about 70% of children are under 12 at the time of the offense and the percentage is applied to child molestation 1<sup>st</sup> prison and probation sentencing in FY05.

Impact from enhanced prison sentences

The impact begins after 6 years in FY13 with 56 offenders per each year.

Impact from Diverted Probation

The impact is 15 offenders per each year.

ASSUMPTION (continued)

Combined Impact

In FY07 there will be 15 additional offenders in prison; 30 in FY08; 45 in FY09; 60 in FY10; 75 in FY11; 90 in FY12; 161 in FY13; 232 in FY14; 303 in FY15 and 374 in FY16.

§566.068 – Child Molestation 2<sup>nd</sup>

Restricts the minimum age of the child to 12. DOC assumes no assessed impact, the legislation is intended to restrict judicial discretion/plea bargaining.

§566.040 – Sexual Assault

The proposal enhances the penalty to lifetime incarceration and no parole or probation for 25 years if the victim is under 12. Sexual assault is a class C felony.

From the OPII age of victim data, about 14% of children are under 12 at the time of the offense and the percentage is applied to sex assault prison and probation sentencing in FY05. The combined result of new admissions and prison diversions is minimal.

§566.070 – Deviate Sexual Assault

The proposal enhances the penalty to lifetime incarceration and no parole or probation for 25 years if the victim is under 12. Deviate Sexual Assault is a class C felony.

From the OPII age of victim data, about 15% of children are under 12 at the time of the offense and the percentage is applied to deviate sex assault prison and probation sentencing in FY05.

Impact from prison sentences

The impact begins in the 4<sup>th</sup> year with 3 offenders per year.

Impact from Diverted Probation

The impact is 2 offenders per year.

Combined Impact

In FY07, there will be 2 additional offenders in prison; 4 in FY08; 6 in FY09; 11 in FY10; 16 in FY11; 21 in FY12; 26 in FY13; 31 in FY14; 36 in FY15 and 41 in FY16.

ASSUMPTION (continued)

§566.090 – Sexual Misconduct 1<sup>st</sup>

The proposal enhances the penalty to lifetime incarceration and no parole or probation for 25 years if the victim is under 12. Deviate Sexual Assault is a class C felony.

From the OPII age of victim data, about 24% of children are under 12 at the time of the offense and the percentage is applied to deviate sex assault prison and probation sentencing in FY05. DOC assumes no impact.

Impact from Diverted Probation

The impact is 7 offenders per each year. In FY07 there will be 7 additional offenders in prison; 14 in FY08; 21 in FY09; 28 in FY10; 35 in FY11; 42 in FY12; 49 in FY13; 56 in FY14; 63 in FY15 and 70 in FY16.

§566.100 – Sexual Abuse

The proposal enhances the penalty to lifetime incarceration and no parole or probation for 25 years if the victim is under 12. Sexual Abuse is a class C felony. DOC assumes no impact.

Impact from Diverted Probation

The impact is 1 offender per each year. In FY07 there will be 1 additional offenders in prison; 2 in FY08; 3 in FY09; 4 in FY10; 5 in FY11; 6 in FY12; 7 in FY13; 8 in FY14; 9 in FY15 and 10 in FY16.

§568.045 – Endangering the Welfare of a Child

The proposal enhances the penalty to lifetime incarceration and no parole or probation for 25 years if the victim is under 12. This applies only to sexual conduct when the offender is parent or guardian, sub-division 2. Endangerment of a child is a class C felony and does not require MOSOP unless a sexual activity was involved. OPII age of victim indicates that only 13 of 922 sentences involved sexual activity. DOC assumes no impact.

§569.092 – Creates the crime of tampering with electronic monitoring equipment, a class C felony

This will apply to a large population, but the likelihood is that if an offender was known to have tampered with the monitor then the offender would be revoked. The new offense would be served concurrently with existing offenses. In last session a similar statute was passed,

ASSUMPTION (continued)

§575.205. DPC assumes no impact.

§575.157 – Creates the crime of aiding a sexual offender to fail to register as a sex offender

The statute could apply to many persons in contact with sex offenders. No impact is assessed because of lack of data but the statute could have an unknown impact on the DOC.

§589.407 – Registration of a Sex Offender

The proposal adds additional information on the registration form including temporary addresses and colleges. No impact is assessed for the DOC.

§589.414 – Sex Offender Registration

The proposal requires county and city law enforcement officers to forward changes in registration details to MULES with 3 days. No impact assessed for DOC.

§589.425 – Sex Offender Registration

The proposal increases the penalty from a class A misdemeanor to a class D felony unless the offender has been convicted of a sex offense of a child under 14, when it increases from a class D felony to a class C Felony. Repeat convictions will be enhanced by one felony class.

There are already 13 separate offense codes for registration violations. In 2005 there were 19 offenders with convictions who were either revoked from supervision or admitted for a new commitment in 2005 and 27 probations. The number of new convictions increased greatly in 2005. Increasing the offense to a class C felony is likely to increase the time served by about 1 year because sex offenders generally serve to conditional release. The impact is 19 in FY07 and 40 in FY08 and each year thereafter.

DOC assumes the total impact in increased offenders of the proposal per fiscal year is as follows:  
FY07 – 86; FY08 – 174; FY09 – 241; FY10 – 311; FY11 – 381; FY12 – 451; FY13 – 577;  
FY14 – 703; FY15 – 829; FY16 – 1,016.

Please see the following chart used to outline costs:

ASSUMPTION (continued)

<b>Operating Expense of Sex Offender Modification Bill</b>			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	39.13	365	14,282
Construction (C4 or C5 \$55,000)			0
Emergency Housing	0.00	365	0
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

	<b>End FY Population</b>	<b>Average Population</b>	<b>Emer Hsng Expense</b>	<b>Operating Expense</b>	<b>Construction Expense</b>	<b>Total Cost w/ Inflation</b>
FY 2006	0	(current year which will have no costs incurred)				
FY 2007	86	43	0	\$614,126	0	\$632,550
FY 2008	174	130	0	\$1,856,660	0	\$1,969,731
FY 2009	241	208	0	\$2,970,656	0	\$3,246,116
FY 2010	311	276	0	\$3,941,832	0	\$4,436,567
FY 2011	381	346	0	\$4,941,572	0	\$5,728,636
FY 2012	451	416	0	\$5,941,312	0	\$7,094,237
FY 2013	577	514	0	\$7,340,948	0	\$9,028,440
FY 2014	703	640	0	\$9,140,480	0	\$11,578,887
FY 2015	829	766	0	\$10,940,012	0	\$14,274,234
FY 2016	1,016	923	0	\$13,182,286	0	\$17,715,890
<b>Total Ten-Year Fiscal Impact:</b>						<b>\$75,705,288</b>

ASSUMPTION (continued)

DOC estimates the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- \$39.13 (FY05 cost) inmate per capita costs with an inflation rate of 3% per each subsequent year.
- \$3.15 (FY03 cost) average daily probation costs with an inflation rate of 3% per each subsequent year.

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 (FY05 average of \$39.13 per inmate, per day or an annual cost of \$14,282 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).

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 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 the indicated measurable dollar amounts per year.

Officials from the **Office of Prosecution Services (OPS)** assume the cost to county prosecutors would be a significant unknown amount, over \$100,000 per year. OPS assumed the legislation would significantly increase the trial dockets for the prosecutors because there would be no incentive for plea bargaining. The cost for each office is unknown, but would be significant.

**Officials from the Columbia Police Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, St. Louis County Police Department, and St. Louis Metropolitan Police Department did not respond to Oversight's request for fiscal impact.**

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>GENERAL REVENUE FUND</b>			
<u>Costs</u> – Department of Corrections Incarceration/probation cost	<u>(\$632,550)</u>	<u>(\$1,969,731)</u>	<u>(\$3,246,116)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$632,550)</u></b>	<b><u>(\$1,969,731)</u></b>	<b><u>(\$3,246,116)</u></b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2007 (10 Mo.)	 FY 2008	 FY 2009
<b>POLITICAL SUBDIVISIONS</b>			
<u>Costs</u> – County Prosecutors Increased cases	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>	<b><u>(More than \$100,000)</u></b>	<b><u>(More than \$100,000)</u></b>	<b><u>(More than \$100,000)</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

## DESCRIPTION

The proposed legislation expands the definition of a prior sex offender from a person who has previously been found guilty of an offense contained in Chapter 566, RSMo, to include a person who has pled guilty to these offenses or has pled or been found guilty of incest involving sexual intercourse or deviate sexual intercourse and child endangerment in which the offender is engaging in sexual conduct with a child for whom he or she is the parent, guardian, or is otherwise charged with the care of the child. The proposal specifies that the authorized term of imprisonment for any crime of rape, statutory rape, sexual assault, forcible sodomy, statutory sodomy, child molestation in the first degree, deviate sexual assault, sexual misconduct in the second degree, sexual abuse, and endangering the welfare of a child in the first degree where the offender is older than 18 years of age and the victim is younger than 12 will be not less than 25 and not greater than 50 years without eligibility for probation, parole, or release except by an act of the Governor. The proposal also creates the crimes of tampering with electronic monitoring equipment and aiding a sexual offender.

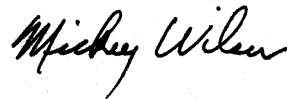
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

## SOURCES OF INFORMATION

Office of the Governor  
Office of State Courts Administrator  
Department of Corrections  
Department of Social Services  
Department of Public Safety  
    – Director's Office  
    – Missouri State Highway Patrol  
Office of Prosecution Services  
Office of the Secretary of State  
Office of the State Public Defender  
Boone County Sheriff's Department  
City of Kansas City  
Springfield Police Department

**NOT RESPONDING**

**Columbia Police Department  
Greene County Sheriff's Department  
Jackson County Sheriff's Department  
St. Louis County Police Department  
St. Louis Metropolitan Police Department**

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

Mickey Wilson, CPA  
Director  
February 17, 2006