

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4908-09
Bill No.: SCS for HCS for HB 1698, 1236, 995, 1362, & 1290
Subject: Criminal Procedure
Type: Original
Date: May 3, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(\$455,460 to Unknown)	(\$878,391 to Unknown)	(\$1,241,924 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$455,460 to Unknown)	(\$878,391 to Unknown)	(\$1,241,924 to Unknown)

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

* Offsetting savings and losses to State School Moneys Fund in FY 2008 and FY 2009.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 27 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Federal	(\$80,653)	(\$46,696)	(\$47,889)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$80,653)	(\$46,696)	(\$47,889)

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government**	(Unknown) to Unknown	(Unknown)	(Unknown)

** Local School Districts would have offsetting income from increased fines and losses from reduced distribution from State School Moneys Fund in FY 2008 and FY 2009.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services, Department of Mental Health, Department of Public Safety – Director’s Office, Boone County Sheriff’s Department,** and the **Springfield Police Department,** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (HCS for HB 1698, 1236, 995, 1362, & 1290, LR # 4908-08), officials from the **St. Louis Metropolitan Police Department** and **Parkway School District** assumed assume the proposal would have no fiscal impact on their agencies.

ASSUMPTION (continued)

Officials from the **Office of the Attorney General (AGO)** did not respond to Oversight's request for fiscal impact. However, in response to a previous version of the proposal (HCS for HB 1698, 1236, 995, 1362, & 1290, LR # 4908-08), officials assumed there is a potential of additional criminal appeals based upon the tougher criminal provisions contained in this proposal. AGO assumes costs can be absorbed in handling additional appeals. However, because the impact on the number of appeals is unknown, the AGO may seek additional appropriations in future years if the number of new appeals becomes significant.

Officials from the **Office of Prosecution Services** did not respond to Oversight's request for fiscal impact. However, in response to a previous version of the proposal (HCS for HB 1698, 1236, 995, 1362, & 1290, LR # 4908-08), officials assumed the proposal will not have a significant direct fiscal impact on county prosecutors, although it may lead to an increase in prosecutions/caseloads.

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.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would increase the penalties and terms of imprisonment for certain sex offenses and create several new offenses. Some cases may become protracted, but CTS would not anticipate a fiscal impact on the judiciary.

CTS assumes the legislation would also permit certain sex offenders to petition the court to have their name removed from the sex offender registry. CTS have no way of determining how many sex offenders might avail themselves of this procedure. There may be some, unknown, impact on the workload of the courts. In all, CTS would not anticipate a fiscal impact in excess of \$100,000.

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 proposal. 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 the schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the 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.

Officials from the **Department of Social Services – Division of Legal Services** assume the proposal would require a sentence of life imprisonment with eligibility for parole after twenty-five years for some offenses. This provision will cause many defendants who might have pled guilty, to instead want to go to trial. This will cause additional work to be done on each investigation. Since the Department of Social Services' State Technical Assistance Team (STAT) is requested by many law enforcement agencies and prosecuting attorneys within the state to assist in these matters, it is expected that STAT caseloads will increase requiring an additional FTE.

STAT also assumes that Sections 566.030, 566.032, 566.060, 566.062, 566.066, 566.083, 566.090, 566.101, 566.147, 566.149, 566.151, 568.020, 568.060, and 575.189 RSMo, which increase the penalties for violations of these statutes, will create a substantial drop in the number of guilty pleas. These cases will all have to go to trial. Prosecutors will require a more thorough and professional investigation concerning the violations of these crimes. Prosecutors and law enforcement will turn to STAT for additional help in the investigation and prosecution of these child sexual abuse cases, especially in rural areas where law enforcement is limited in manpower. STAT assumes that the additional requests for assistance would necessitate the need for at least one additional regular commissioned field investigator. The investigator would require specialized investigative equipment.

To summarize, STAT assumes they will need a total of two Investigator III FTEs (each at \$40,000 per year), one for additional computer examinations and one for additional investigative needs for the increased penalties.

ASSUMPTION (continued)

STAT estimates the total cost of the proposal would be \$219,951 in FY 07, \$139,307 in FY 08, and \$139,307 in FY 09. This would be divided among the General Revenue and Federal Funds.

Oversight has, for fiscal note purposes only, changed the starting salary for the Investigator III to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight also assumes the Department of Social Services would house the additional FTE within existing facilities. The equipment and expense has been reduced to eliminate the rent.

Officials from the **Department of Corrections (DOC)** assume the proposal modifies laws regarding sexual offenders. DOC has the following assumptions on the portions of this bill to have potential fiscal impact:

§558.018 – Enhances the Sentence of Persistent Sex Offenders to Lifetime Incarceration

These offenders already serve long sentences. Although, this change will affect DOC, there is no impact felt within DOC's 10 year time projection.

§§566.030 & 566.060 – Forcible Rape and Forcible Sodomy

The proposal requires a life sentence and at least 25 years incarceration when the victim is under 12. The proposal allows 15 year minimum when the offender is 75 and has served at least 15 years. This would apply to offenders who were over 50 at sentencing. Both statutes are dangerous felonies and are already required to serve 85% of sentence. Statute assesses life sentences as 30 years and 85% of 30 years is 25.5 years.

Relatively few offenders who assault young children are convicted of forcible rape or forcible sodomy. The total impact is estimated at 362 but the impact will not occur until 17 years out, the time when offenders would be released under current sentencing.

§566.147 – Sex Offenders Not to Reside Within 1,000 Feet of School

DOC states residency is made retrospective. DOC assumes it is difficult to estimate impact. DOC assumes an unknown impact.

ASSUMPTION (continued)

§566.151 – Child Enticement

The proposal enhances the sentence from class B felony to 5 years with minimum time served of 5 years and no probation. In 2005 there were 9 probation sentences who would have to serve 5 years. The total impact is 57 that would be reached in FY12. Impact would begin in FY07 with 9; 18 in FY08; 27 in FY09; 36 in FY10; 55 in FY11; and 57 in FY12, remaining static thereafter.

§575.159 – Aiding an Offender

Aiding an offender to avoid registration is a class D felony. DOC assumes unknown impact for newly created crime.

§589.425 – Sex Offender Registration

The proposal increases the penalty of failing to register to a class C felony from a class A misdemeanor. 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; 40 in FY08 as well as each year thereafter.

This bill also requires 10 year electronic monitoring after the third violation of sex offender registration. At present, there are three offenders who have three or more convictions for registration violations. However, as the number of registration violations is increasing, it is estimated that the number may double to 6 per year. The impact after 10 years would be 60. The breakdown is as follows: FY07 is 6; FY08 is 12; FY09 is 18; FY10 is 24; FY11 is 30; FY12 is 36; FY13 is 42; FY14 is 48, FY15 is 54; and FY16 is 60 on GPS monitoring.

DOC Combined Impact Summary

Incarceration impact per fiscal year is as follows: FY07 is 28; FY08 is 58; FY09 is 67; FY10 is 76; FY11 is 95; FY12 is 106; FY13 is 115; FY14 is 124, FY15 is 130; and FY16 is 130.

GPS monitoring numbers are as follows: FY07 is 6; FY08 is 12; FY09 is 18; FY10 is 24; FY11 is 30; FY12 is 36; FY13 is 42; FY14 is 48, FY15 is 54; and FY16 is 60.

Please see the following charts used to outline costs:

BLG:LR:OD (12/02)

ASSUMPTION (continued)

GPS Monitoring Expense of Sex Offender Modification Bill			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	0	365	0
Construction (C4 or C5 \$55,000)			0
GPS Monitoring Cost	12.00	365	4,380
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

	End FY Population	Average Population	Emer Hsng Expense	GPS Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2006	0	(current year which will have no costs incurred)				
FY 2007	6	3	0	\$13,140	0	\$13,534
FY 2008	12	9	0	\$39,420	0	\$41,821
FY 2009	18	15	0	\$65,700	0	\$71,792
FY 2010	24	21	0	\$91,980	0	\$103,524
FY 2011	30	27	0	\$118,260	0	\$137,096
FY 2012	36	33	0	\$144,540	0	\$172,588
FY 2013	42	39	0	\$170,820	0	\$210,087
FY 2014	48	45	0	\$197,100	0	\$249,680
FY 2015	54	51	0	\$223,380	0	\$291,460
FY 2016	60	57	0	\$249,660	0	\$335,522
Total Ten-Year Fiscal Impact:						\$1,627,104

ASSUMPTION (continued)

Operating Expense of Sex Offender Modification Bill			
	<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

	End FY Population	Average Population	Emer Hsng Expense	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2006	0	(current year which will have no costs incurred)				
FY 2007	28	14	0	\$199,948	0	\$205,946
FY 2008	58	43	0	\$614,126	0	\$651,526
FY 2009	67	63	0	\$899,766	0	\$983,199
FY 2010	76	72	0	\$1,028,304	0	\$1,157,365
FY 2011	95	86	0	\$1,228,252	0	\$128,538
FY 2012	106	101	0	\$1,442,482	0	\$371,332
FY 2013	115	111	0	\$1,585,302	0	\$614,126
FY 2014	124	120	0	\$1,713,840	0	\$914,048
FY 2015	130	127	0	\$1,813,814	0	\$1,271,098
FY 2016	130	130	0	\$1,856,660	0	\$1,613,866
Total Ten-Year Fiscal Impact:						\$1,956,634

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.
- \$12.00 (current) average daily GPS Electronic Monitoring 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 **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the Criminal Records and Identification Division would incur costs for operating the 800 number. Officials estimate that approximately 1,800 incoming phone calls would be received per month. Based on 1,800 incoming calls per month, the annual cost per year for the phone service and anticipated postage is \$9,500 per fiscal year. These costs are based on estimates. Since the actual fiscal impact will be determined by the public's use of the 800 number, there is no way to calculate exact costs. If the public's response is greater than anticipated, additional costs will be incurred.

ASSUMPTION (continued)

Oversight assumes local law enforcement agencies may experience an increase in jail populations as a result of the proposal. Oversight has shown the fiscal impact to local law enforcement agencies as unknown.

Officials from the Office of the State Public Defender, Columbia Police Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, Kansas City Police Department, Columbia Public Schools, Kansas City Public Schools, Mexico Public Schools, Nixa Public Schools, Sedalia School District, and the St. Louis Public Schools did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2007	FY 2008	FY 2009
GENERAL REVENUE FUND			
<u>Savings</u> – Reduced appropriations to State School Moneys Fund	\$0	Unknown	Unknown
<u>Costs</u> – Office of State Courts Administrator			
Increased workload	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Department of Corrections			
GPS monitoring cost	(\$13,534)	(\$41,821)	(\$71,792)
Incarceration/probation cost	(More than \$205,946)	(More than \$651,526)	(More than \$983,199)
<u>Total Costs</u> – DOC	(More than \$219,480)	(More than \$693,347)	(More than \$1,054,991)
<u>Costs</u> – Department of Social Services			
Personal Service (1.2 FTE)	(\$35,262)	(\$43,390)	(\$44,475)
Fringe Benefits	(\$15,537)	(\$19,118)	(\$19,596)
Equipment and Expense	(\$70,181)	(\$7,536)	(\$7,762)
<u>Total Costs</u> – DOS	(\$120,980)	(\$70,044)	(\$71,833)
<u>Costs</u> – Missouri State Highway Patrol			
800 number	(Less than \$15,000)	(Less than \$15,000)	(Less than \$15,000)
<u>Costs</u> – Grants to multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$455,460 to Unknown)</u>	<u>(\$878,391 to Unknown)</u>	<u>(\$1,241,924 to Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2007	FY 2008	FY 2009
(continued)			

STATE SCHOOL MONEYS FUND

<u>Savings</u> – Reduced distributions to local school districts	\$0	Unknown	Unknown
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<u>Losses</u> – Reduced appropriations from General Revenue Fund	\$0	(Unknown)	(Unknown)
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ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - State Government</u>	FY 2007	FY 2008	FY 2009
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FEDERAL FUNDS

<u>Costs</u> – Department of Social Services			
Personal Service (0.8 FTE)	(\$23,508)	(\$28,927)	(\$29,650)
Fringe Benefits	(\$10,358)	(\$12,745)	(\$13,064)
Equipment and Expense	(\$46,787)	(\$5,024)	(\$5,175)
<u>Total Costs – DOS</u>	<u>(\$80,653)</u>	<u>(\$46,696)</u>	<u>(\$47,889)</u>

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$80,653)</u>	<u>(\$46,696)</u>	<u>(\$47,889)</u>
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FISCAL IMPACT - Local Government FY 2007 FY 2008 FY 2009

POLITICAL SUBDIVISIONS

Revenues – School Districts

Income from fines	Unknown	Unknown	Unknown
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Losses – School Districts

Reduced distributions from State School Moneys Fund	\$0	(Unknown)	(Unknown)
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Costs – Law Enforcement Agencies

Increased jail populations	(Unknown)	(Unknown)	(Unknown)
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**ESTIMATED NET EFFECT ON
POLITICAL SUBDIVISIONS**

<u>(Unknown) to Unknown</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FISCAL IMPACT - Small Business

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

DESCRIPTION

This act modifies the laws regarding sexual offenders:

§43.533 – TOLL-FREE SEXUAL OFFENDER HOTLINE

This section requires the Highway Patrol, subject to appropriation, to operate a toll-free telephone number to disseminate information regarding individuals registered as sexual offenders and receive information from people on the residency of such offenders. The toll-free number will be placed on the Highway Patrol's sex offender registry website.

DESCRIPTION (continued)

§43.650 – HIGHWAY PATROL SEX OFFENDER INTERNET WEBSITE INFORMATION

This section modifies what information shall be provided on the Highway Patrol's sexual offender registry Internet website. In addition to the information currently provided, the website shall provide the following information about each offender: 1) known aliases, 2) date of birth or alias dates of birth, 3) physical description, 4) temporary, work, and school addresses, 5) a physical description of the offender's vehicles, 6) the nature and date of qualifying offenses, 6) date of release, parole, or probation, 7) the person's compliance status with the registry requirements, and 8) any photographs.

§188.023 – MANDATORY REPORTERS OF SEXUAL ABUSE

Any licensed health care professional who delivers a baby or performs an abortion, who has prima facie evidence that a patient has been the victim of statutory rape in the first degree or statutory rape in the second degree, or if the patient is under the age of eighteen, that he or she has been a victim of sexual abuse, including forcible rape, sexual assault, or incest, shall be a mandatory reporter of such crimes and abuse.

§351.609 – EXPEDITING SUBPOENAS AND SEARCH WARRANTS OF FOREIGN CORPORATIONS

The provisions of this section shall apply to any subpoena or search warrant issued to search for records that are in the actual or constructive possession of a foreign corporation that provides electronic communication services or remote computing services to the general public, where those records would reveal the information concerning the customers using the service.

When properly served with a subpoena or search warrant issued by a Missouri court, a foreign corporation shall provide all records sought pursuant to the warrant within 5 business days of receipt, including any records maintained or located outside the state. For certain reasons, the time limit for production of the records may be shortened or extended.

A foreign corporation seeking to quash the subpoena or warrant must seek relief from the court that issued the subpoena or warrant within the time required for production of records under this section. The issuing court shall hear and decide that motion no later than five court days after the motion is filed.

DESCRIPTION (continued)

A Missouri corporation that provides electronic communication services or remote computing services to the general public, when served with a subpoena or warrant issued by another state to produce records that reveal the customers using those services shall produce those records as if the subpoena or warrant was issued by a court of this state.

No cause of action shall lie against any foreign corporation or Missouri corporation subject to this section, its officers, employees, agents, or other specified persons for providing records, information, facilities, or assistance in accordance with the terms of a warrant subject to this section.

§489.042 – COMPUTER ACCESS FOR PROBATION/PAROLE OFFICERS

This section authorizes the Board of Probation and Parole or the court to require a person who is required to register as a sexual offender to give his or her assigned probation or parole officer access to his or her personal home computer as a condition of probation or parole in order to prevent such offender from obtaining and keeping child pornography or committing certain sexual offenses.

§544.025 – NO CONTACT ORDERS

Under this section, when a victim of a sexual offense initially makes a report of such offense to a law enforcement officer or a prosecuting attorney, such officer or attorney shall endeavor to inform the victim that he or she has the right to request a no contact order be issued against the alleged perpetrator and how the victim can obtain such an order.

When a judge issues an arrest warrant for a person alleged to have committed a sexual offense, if a victim has requested a no contact order, the judge shall issue one at the same time. The order shall remain in effect until the criminal case is concluded. Any defendant who knowingly violates a no contact order shall have his or her bond revoked by the court.

§547.170 – DENYING BAIL TO CONVICTED PERSONS

This section adds certain sexual offenses involving children and pornography offenses involving children to the list of offenses for which a person cannot be granted bail after being sentenced.

§556.061 – DEFINITION OF DANGEROUS FELONY

This section redefines the term “dangerous felony” to include child kidnapping.

DESCRIPTION (continued)

§558.018 – PERSISTENT SEXUAL OFFENDERS

This section increases the minimum term of imprisonment for a “persistent sexual offender” from 30 years without probation or parole to life imprisonment without eligibility for probation or parole.

§559.100 – NO PROBATION OR PAROLE

In addition to other offenses, this section prohibits the courts from granting probation or parole to persons convicted of failing to register as a sex offender as a third offense, forcible rape, forcible sodomy, sexual trafficking of a child, sexual trafficking of a child under the age of twelve, and enticement of a child.

§566.010 – DEFINITION OF “DEVIATE SEXUAL INTERCOURSE”

This section modifies the definition of the term “deviate sexual intercourse” to include certain sexual acts performed to terrorize the victim.

§566.030 – FORCIBLE RAPE

If a person inflicts serious injury, displays a weapon, or subjects the victim to sex with more than one person when committing forcible rape, the authorized term of imprisonment is life imprisonment or not less than fifteen years, rather than the current ten-year minimum term of imprisonment.

Under this section, the required term of imprisonment for a person who commits forcible rape and the victim is less than 12 years of age, shall be life imprisonment without eligibility for probation or parole until the person has served at least 25 years of his or her sentence or unless the person has reached the age of 75 years and has served at least 15 years of such sentence.

Any sexual intercourse with a child under the age of twelve shall be deemed to have been committed by use of forcible compulsion.

A person found guilty of or pleading guilty to forcible rape or attempt to commit forcible rape shall not be granted a suspended imposition of sentence or suspended execution of sentence.

DESCRIPTION (continued)

§566.060 – FORCIBLE SODOMY

Under this section, the term of imprisonment for a person who commits forcible sodomy and the victim is less than 12 years of age, shall be life imprisonment without eligibility for probation or parole until the person has served at least 25 years of his or her sentence or unless the person has reached the age of 75 years and has served at least 15 years of such sentence.

Any deviate sexual intercourse with a child under the age of twelve shall be deemed to have been committed by use of forcible compulsion.

A person found guilty of or pleading guilty to forcible sodomy or attempt to commit forcible sodomy shall not be granted a suspended imposition of sentence or suspended execution of sentence.

§566.067 – CHILD MOLESTATION IN THE FIRST DEGREE

Under this section, a person who commits child molestation in the first degree against a child less than twelve years of age and with certain aggravating circumstances existing, shall be guilty of a class A felony and shall serve his or her term of imprisonment without eligibility for probation or parole.

§566.083 – SEXUAL MISCONDUCT WITH A CHILD

This section specifies that sexual misconduct with a child may be committed in person or via the Internet. It is not an affirmative defense that the other person whom the offense was committed against was a peace officer masquerading as a minor.

§566.086 – SEXUAL CONTACT WITH A STUDENT

Currently, only a teacher who has sexual contact with a student while on public school property is guilty of the crime of sexual contact with a student.

Under this act, any teacher or student teacher, school employee or volunteer, volunteer of an organization working with the school, or any person employed by an entity that contracts with the public school district to provide services shall be guilty of such crime if he or she has sexual contact with a student on school property. The term “school property” includes the property of any public elementary or secondary school or any school bus used by the public school district.

DESCRIPTION (continued)

The crime of sexual contact with a student is a class D felony.

§566.090 – SEXUAL MISCONDUCT IN THE FIRST DEGREE

Under this section, a person can commit sexual misconduct in the first degree by knowingly exposing his or her genitals to another person without consent for the purpose of sexual gratification.

§566.145 – SEXUAL CONTACT WITH A PRISONER OR OFFENDER

This section expands the current crime of “sexual contact with an inmate” to “sexual contact with a prisoner or offender.”

Currently, an employee of a prison, jail or correctional facility is guilty of sexual contact with an inmate by having sex with an inmate. Under this act, a person is also guilty of such crime if he or she is a probation and parole officer and has sex with an offender. An “offender” is a person in prison or jail or a person under supervision of the Board of Probation and Parole.

§566.147 – SEXUAL OFFENDERS RESIDING NEAR SCHOOLS

Currently, this section prohibits certain offenders from establishing a residence within 1,000 feet of a school or child-care facility. This section prohibits such offenders from “residing” within 1,000 feet of a school. “Residing” is defined as “sleeping in a residence, which may include more than one location and may be mobile or transitory.”

§566.149 – SEXUAL OFFENDER ON SCHOOL GROUNDS

This section prohibits sexual offenders from being present in or loitering within 500 feet of a school building or property or a school-related activity when persons under age 18 are present, unless the person is a parent or guardian of a student in the building and has met the received permission from the school administration. Permission may be granted for one event or for a series of events. Violation of this section is a class A misdemeanor.

DESCRIPTION (continued)

§566.151 – ENTICEMENT OF A CHILD

This section makes enticement of a child or attempting to entice a child a felony with an authorized term of imprisonment of not less than 5 years but not more than 30 years. No person convicted of this crime shall be eligible for probation, parole, conditional release, or suspended imposition or execution of sentence for five calendar years.

§566.213 – SEXUAL TRAFFICKING OF A CHILD UNDER TWELVE

This section creates the crime of sexual trafficking of a child under the age of twelve. A person commits this crime if the person recruits, entices, transports, provides, or causes a person under the age of twelve to engage in a commercial sex act. It is not an affirmative defense that the defendant believed that the person was twelve years of age or older. This crime is a felony with an authorized term of imprisonment of life imprisonment without eligibility for probation or parole for 25 years.

§568.020 – INCEST

This section removes duplicative definitions.

§568.060 – CHILD ABUSE

This section removes the provision stating that photographing a child in a prohibited sex act or permitting a child to engage in such an act for the purpose of photographing him or her is an act of child abuse.

§575.159 – AIDING A SEXUAL OFFENDER

This section creates the crime of aiding a sexual offender. Under this section, any person who assists a sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question him or her about, or to arrest the offender for, his or her noncompliance with the registration requirements is guilty of a class D felony.

DESCRIPTION (continued)

§575.195 – ESCAPING FROM COMMITMENT, DETENTION, OR CONDITIONAL RELEASE

This section specifies that individuals institutionally committed under the “sexual psychopath” statutes in effect prior to 1980 can be guilty of escaping from commitment. Escape from commitment or detention is a class D felony. It also creates the crime of escape from conditional release, which is a class D felony.

§589.400 – SEXUAL OFFENDER REGISTRY

This section adds sexual contact with a resident of a nursing home, endangering the welfare of a child if committed in a sexual manner, genital mutilation, and sexual trafficking of a child, both generally and against children under the age of twelve, to the list of offenses for which a person must register as a sexual offender.

This section removes kidnaping when the victim is a child and the defendant is a parent or guardian of the child, felonious restraint when the victim is a child and the defendant is a parent or guardian of the child, and non-sexual child abuse from the list of offenses for which a person must register as a sexual offender. Individuals who are currently on the sexual offender registry for such offenses shall no longer be required to register as of August 28, 2006. Such person shall remain on the registry for any other offense for which he or she must register.

As of August 28, 2006, a person on the sexual offender registry for the following offenses may petition the civil division of the circuit court in which he or she plead guilty to or was found guilty of the offense for removal from the registry after ten years:

- Promoting prostitution in the second or third degree;
- Public display of explicit sexual material; or
- Statutory rape in the second degree.

The court may order such relief if the person has no pending charges for which he or she would have to register. The prosecuting attorney shall be given notice of the petition to present evidence in opposition or may otherwise demonstrate the reasons why the petition should be denied. If the petition is denied, the registrant shall wait at least 12 months before petitioning again.

DESCRIPTION (continued)

If the court find the person is entitled to relief for removal of his or her name from the registry, a copy of the written findings or order shall be forwarded to the chief law enforcement officer and the Highway Patrol in order to remove the person's name.

Any nonresident worker or student shall register and is not entitled to this type of relief. Any registered offender from another state who has a temporary residence in this state and resides more than 14 days in a 12-month period shall register for the duration of his or her residency and is not entitled to this relief.

A person removed from the registry no longer has to fulfill the registration requirements unless he or she is later required to register for another offense.

This section modifies the term "chief law enforcement officer" to include the chief law enforcement officer of St. Louis City as well as any county.

§589.402 – NEWSPAPER PUBLICATION AND WEBSITE INFORMATION

This section modifies what information shall be provided on the sexual offender registry website of any county or St. Louis City. In addition to the information currently provided, the website shall provide the following information about each offender: 1) known aliases, 2) date of birth or alias dates of birth, 3) physical description of the offender, 4) residence address, 5) temporary, work, and school addresses, 6) a physical description of the offender's vehicles, 7) the nature and date of qualifying offenses, 8) date of release, parole, or probation, 9) any photographs, and 7) the person's compliance status with the registry requirements.

This section allows the chief law enforcement officer of any county or St. Louis City to publish the registration information of sexual offenders living within the county or city in the newspaper.

This section modifies the term "chief law enforcement officer" to include the chief law enforcement officer of St. Louis City as well as any county.

§§589.403 & 589.405 – NOTIFICATION OF DUTY TO REGISTER

These sections modifies the term "chief law enforcement officer" to include the chief officer of St. Louis City as well as any county.

DESCRIPTION (continued)

§589.407 – REGISTRATION INFORMATION

In addition to current information provided, this section requires any registered sexual offender to provide a description of his or her vehicles. Also, the offender must provide positive identification and documentation to substantiate the accuracy of the information provided on his or her registration form, including: 1) a copy of a valid driver's license or ID card; 2) a document verifying proof of the offender's residency; and 3) a copy of the vehicle registration for each of the offender's vehicles.

§589.414 – UPDATING PHOTOS OF SEXUAL OFFENDERS

This section requires registered sexual offenders to provide an updated photograph once a year to law enforcement when they go for their reporting. Such offenders must report semi-annually, rather than annually.

This section modifies the term "chief law enforcement officer" to include the chief officer of St. Louis City as well as any county.

§589.425 – FAILING TO REGISTER AS A SEX OFFENDER

This section restructures the penalties for failing to register as a sex offender.

Under this act, a person who is required to register and does not complete all the requirements of registration is guilty of failing to register as a sex offender, which is a class A misdemeanor unless the person is required to register based on having committed a sex crime under Chapter 566, which is an unclassified felony, a class A felony, a class B felony, or any felony involving a child under the age of 14, in which case, it is a class D felony.

Failing to register as a sex offender as a second offense is a class D felony unless the person is required to register based on having committed a sex crime under Chapter 566, which is an unclassified felony, a class A felony, a class B felony, or any felony involving a child under the age of 14, in which case, it is a class C felony.

DESCRIPTION (continued)

Failing to register as a sex offender as a third offense is a felony punished by a term of imprisonment of not less than 10 years but not more than 30 years. No court may suspend the imposition or execution of sentence of a person who commits such crime and no court may sentence such person to pay a fine in lieu of imprisonment. A person sentenced to such crime shall not be eligible for conditional release or parole until he or she has served at least two years of imprisonment. Upon release, a mandatory condition of supervision is that the offender shall be electronically monitored.

§600.042 – PUBLIC DEFENDERS

The state public defender system shall provide legal services to eligible persons, who have been taken into custody, for appeals from petitions for release.

§§632.484, 632.489, & 632.495 – HOUSING SEXUALLY VIOLENT PREDATORS

These sections specify that individuals being detained by the court for evaluation to determine whether they are sexually violent predators and individuals who have already been determined to be sexually violent predators may be housed together in the same location by the Department of Mental Health.

§632.495 – SEXUALLY MOTIVATED OFFENSE

If a petition is filed alleging that a person committed a sexually violent offense for which a person could be civilly committed, the attorney general must prove by clear and convincing evidence that the offense was sexually motivated. “Sexually motivated” means one of the purposes for which the crime was committed was sexual arousal or gratification.

§632.498 – ANNUAL REVIEW BY THE COURT

Currently, each person civilly committed shall have an annual examination of his or her mental health. The court that committed the person shall conduct an annual review of the person’s status and have a hearing. Nothing in the section shall be construed as prohibiting a person from petitioning the court for conditional release. However, if the committed person petitions the court for conditional release over the Director of the Department of Mental Health’s objection, the petition shall be served upon the court that committed the person, the director, the head of the facility housing the person, and the attorney general. Under this section, the court shall not conduct an annual review of a person’s status if he or she has been conditionally released.

DESCRIPTION (continued)

Under this section, if the court determines at the hearing that the person no longer suffers from mental abnormalities that would likely make he or she engage in sexual violence, the court shall set a trial on the issue. The burden of proof at the trial shall be upon the state to prove by clear and convincing evidence, rather than beyond a reasonable doubt, that the person should remain committed. Any such determination by a jury shall be unanimous. If the court or jury find that the person's mental abnormality remains and he or she is a threat, the person shall remain in a secure facility. If the court or jury finds the person is changed, so that he or she is unlikely to commit acts of sexual violence if released, the person shall be conditionally released.

§§632.501 & 632.504 – PETITIONS FOR RELEASE

If a person is released, the petition shall be served upon the court, the director of the Department of Mental Health, the director of the housing facility, and the Attorney General.

§632.505 – CONDITIONAL RELEASE

The Department of Mental Health may enter into an interagency agreement with the Department of Corrections for supervision of people granted a conditional release by the court.

This section establishes the requirements for conditional release. The Department of Corrections and the Department of Mental Health shall develop a conditional release plan, which addresses the various needs of the person being released. The Department of Mental Health shall submit the plan to the court and the court will determine whether it is sufficient. The court shall order that the person is subject to numerous conditions, including but not limited to, maintaining a residence approved by the department and employment, obeying all laws, not possessing a firearm, taking all medication, and not participating in activities with children without approval. The court may modify the conditions.

The court shall provide a copy of the order containing the conditions of release to the to the person, the attorney general, the Department of Mental Health, the head of the facility housing the person, and the Department of Corrections. A person who is conditionally release may be supervised by a probation and parole officer.

If a probation and parole officer believes the person should no longer be released or has violated a condition of release, the officer may issue a warrant for the person's arrest. The warrant shall direct any peace officer to take the person into custody immediately in order to be returned to a secure facility.

DESCRIPTION (continued)

If the Director of Mental Health believes the person should no longer be released or has violated a condition of release, he or she may request that a peace officer take the person into custody or request a probation or parole officer issue an arrest warrant. The court may issue a notice to the person to appear to answer a charge of a violation at any time and the court may issue an arrest warrant that authorizes the return of the person.

No peace officer responsible for apprehending and returning the person to the facility upon request shall be civilly liable if such duties were performed in good faith and without negligence. The department shall notify the court of the person's return.

Within seven days, the department shall file a petition to revoke conditional release or continue the person on release. A person shall remain in custody until a hearing, which has priority on the docket, is held on the revocation. If the court finds the person is no longer suitable for conditional release, the court shall revoke such release and order the person's return to a secure facility. If the person is not returned, the court may modify the conditions of release.

A person whose conditional release has been revoked may petition for subsequent release no sooner than 6 months after his or her return.

The departments may require a person on conditional release to pay a reasonable fee for providing services and monitoring.

If a person on conditional release escapes from custody, the Department of Mental Health shall notify the court, the Department of Corrections, the county law enforcement, and the Attorney General. The Attorney General shall notify the victims and witnesses and file escape from commitment charges.

§632.507 – VICTIMS' INFORMATION RIGHTS

This section requires the Attorney General to inform victims of a sexually violent offense of the filing of any petition for conditional release by the perpetrator.

DESCRIPTION (continued)

§650.120 – HIGHWAY PATROL INTERNET CRIME INVESTIGATION

Subject to appropriation, the highway patrol shall create a program to investigate Internet sex crimes against children. The highway patrol shall designate members of the patrol to investigate such crimes against children and provide computer forensics on a full-time basis under this program. The Highway Patrol shall coordinate with any existing Internet Crimes Against Children task forces located in Missouri to investigate such crimes.

The Highway Patrol shall make computer forensics available to any multijurisdictional Internet cyber crime law enforcement task force or law enforcement agency that requests such assistance.

This proposal contains an emergency clause and will be in full force and effect upon its passage and approval.

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

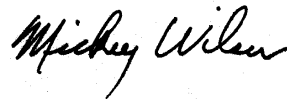
SOURCES OF INFORMATION

Office of the Attorney General
Office of State Courts Administrator
Department of Economic Development
Department of Elementary and Secondary Education
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Department of Public Safety
 – Missouri State Highway Patrol
 – Director's Office
Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender
Boone County Sheriff's Department
Springfield Police Department
St. Louis Metropolitan Police Department
Parkway Public Schools

BLG:LR:OD (12/02)

NOT RESPONDING

**Columbia Police Department
Greene County Sheriff's Department
Jackson County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department
Columbia Public Schools
Kansas City Public Schools
Mexico Public Schools
Nixa Public Schools
Sedalia School District
St. Louis Public Schools**



Mickey Wilson, CPA
Director
May 3, 2006