

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1044-05
Bill No.: HCS for HB 331
Subject: Highway Patrol; Law Enforcement Officers and Agencies
Type: Original
Date: April 5, 2007

Bill Summary: This proposal modifies various provisions regarding the Missouri State Highway Patrol.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Under \$100,000)	(Under \$100,000)	(Under \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Under \$100,000)	(Under \$100,000)	(Under \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Criminal Records	\$2,868,333	\$3,442,000	\$3,787,500
Various State Funds	\$0 to (\$36,720)	\$0 to (\$36,720)	\$0 to (\$36,720)
Total Estimated Net Effect on <u>Other</u> State Funds	\$2,831,613 to \$2,868,333	\$3,405,280 to \$3,442,000	\$3,750,780 to \$3,787,500

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	(\$288,305)	(\$348,563)	(\$408,821)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state the proposed legislation would modify various provisions regarding the MHP. Based on the average number of record checks in the last two years, the increase of \$1 per name check starting in 2010 will increase the yearly income into the Criminal Records Fund by an additional \$691,000 each year until the \$15 maximum is reached in 2015.

Regarding Section 43.546 RSMo

The Criminal Records and Identification Division of the Missouri State Highway Patrol estimate that there are approximately 60,000 state employees with an approximate turnover rate of 17% per year. $60,000 \times 17\% = 10,200$ employees.

It is estimated that 15% or less, of those 10,200 employees would be in occupations that would require fingerprint checks. $10,200 \times 15\% = 1,530$ employees.

State processing fingerprint fees are \$14 (waived for state employees)

The FBI processing fingerprint fees are \$24, however \$2 is retained in the Criminal Records Fund as administrative fee.

$1,530 \text{ employees} \times \$22 = \$33,660$ (passed - through to the FBI)

$1,530 \text{ employees} \times \$2 = \$3,060$ (retained in the Criminal Records System Fund as administrative fee).

Regarding Section 43.530 RSMo

The average number of name checks for the prior two fiscal years is 691,000

The average number of fingerprint checks for the prior two fiscal years is 113,000

FY '08

Fiscal year fees under the old fee schedule would be:

Name $691,000 \times \$5 = \$3,455,000$

Fingerprint $113,000 \times \$14 = \$1,582,000$

Total = \$5,037,000

ASSUMPTION (continued)

Fiscal year fees with the proposed increase would be:

Name 691,000 x \$9 = \$6,219,000

Fingerprint 113,000 x \$20 = \$2,260,000

Total = \$8,479,000

The FY 08 increase would be \$3,442,000 (\$8,479,000 - \$5,037,000)

\$3,442,000 divided by 12 mths x 10 mths = \$2,868,333

FY 09

The calculated fiscal year fees with the proposed increase would be:

Name 691,000 x \$9 = \$6,219,000

Fingerprint 113,000 x \$20 = \$2,260,000

Total = \$8,479,000

The FY 09 increase would be \$3,442,000 (\$8,479,000 - \$5,037,000)

FY 10

Name 691,000 x \$9.50 = \$6,564,500

Fingerprint 113,000 x \$20 = \$2,260,000

Total = \$8,824,500

The FY 10 increase would be \$3,787,500 (\$8,824,500 - \$5,037,000)

Because the rate will increase from \$9 to \$10 on 1/1/10, the fee for half the fiscal year will be at \$9 and the other half at \$10. We assume that the checks will be spread evenly throughout the year, so we are using \$9.50 as an average for the year.

Regarding Section 43.547 RSMo

The Highway Patrol assumes no more than 50 gubernatorial appointees during an election year and less during off years.

State processing fingerprint fees are \$14 (waived at the current time for state employees). FBI processing fingerprint fees are \$24 (pass-through fees to the FBI).

50 appointees x \$24 = \$1,200 (pass-through fees to the FBI, i.e., not retained in the Criminal Records System fund). Because this amount is so small, this section of the proposed legislation is being treated as "no impact".

ASSUMPTION (continued)

Regarding Section 43.115 RSMo

The MHP assumes unknown - under \$100,000 fiscal impact from this part for the proposal. The MHP does not currently track, or does the MHP have a way to track how many retired employees perform as witnesses in official court proceedings. The MHP assumes the new appropriation will be General Revenue Funds.

In response to a similar proposal from this year (SCS for SB 531), officials from the **Department of Elementary and Secondary Education (DESE)** assumed the following fiscal impact from the proposal:

	<u>CY 2006</u>			<u>FY 2008</u>
Background Checks	60,258	x	\$4	\$241,032
Fingerprint Checks	<u>47,273</u>	x	\$1	<u>\$ 47,273</u>
Total	107,531			\$288,305

Assuming the level of background checks and fingerprint searches remains level, and assuming the fee increases by \$1 per annum as allowed in the proposal, the fiscal impact may be computed as follows:

FY 2008		Increase		FY 2009		Increase		FY 2010
\$241,032	+	\$60,258	=	\$301,290	+	\$60,258	=	\$361,548
<u>\$ 47,273</u>	+	<u>\$ 0</u>	=	<u>\$ 47,273</u>	+	<u>\$ 0</u>	=	<u>\$ 47,273</u>
\$288,305		\$60,258		\$348,563		\$60,258		\$408,821

In summary, DESE assumed an increase in cost to local school districts of \$288,305 in FY 2008, \$348,563 in FY 2009 and \$408,821 in FY 2010.

In response to a similar proposal from this year (SCS for SB 531), officials from the **Missouri Lottery** reported fiscal impact (over current base costs for name checks and fingerprint checks) on the Lottery Enterprise Fund of \$37,908 in FY 2008, \$47,100 in FY 2009 and \$56,520 in FY 2010.

Officials from the **Missouri Gaming Commission** state that, assuming a \$1 increase in state criminal history checks in each year and an increase in the fingerprint search from \$14 to \$15 would result in additional costs of \$306,720 in FY 2008, \$406,200 in FY 2009 and \$461,670 in FY 2010.

ASSUMPTION (continued)

Officials from the **Department of Social Services - Youth Services** estimate that at least 500 background checks will be required to fill vacancies. The division assumes an average of 25% due to job offers declined, disqualifying findings, and need to conduct multiple checks prior to making an offer.

Based on the provision that fingerprinting would be \$20 per applicant, the division assumed the cost of fingerprint checks for its new hires to be between \$8,330 and \$10,000 during the first three years.

Officials from the **Department of Social Services - Human Resources** state the language appears to make conducting fingerprint background checks an option, rather than mandatory. It also appears that we could require the applicant/employee to pay the cost for the check. For those reasons, a fiscal impact could not be determined at this time.

Officials from the **Department of Social Services - Children's Division (CD)** state they had 367 Children Service Workers and Supervisors leave the Division. Background screenings, per the bill, would cost the division \$7,340 per year (367 x \$20).

Officials from the **Office of the Secretary of State** note that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 fiscal note to Secretary of State's office for Administrative Rules is less than \$2,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget.

Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

ASSUMPTION (continued)

Officials from the **Department of Corrections, Department of Insurance, Financial Institutions and Professional Registration, Office of Administration - Budget and Planning, Department of Health and Senior Services, Department of Natural Resources, Department of Agriculture, Department of Mental Health, Department of Revenue, Office of the State Treasurer, Joint Committee on Public Employee Retirement, Office of the State Auditor, Department of Economic Development, Office of the Lieutenant Governor, Department of Labor and Industrial Relations, MOSERS, Office of the State Courts Administrator, Missouri Consolidated Health Care Plan, State Tax Commission, Missouri Senate, Missouri House of Representatives, Department of Public Safety - Fire Safety, Water Patrol, Director's Office and Veterans' Commission** and the **Office of the State Public Defender** each assume the proposal would either not fiscally impact their respective agencies or impact their agencies by a minimal amount that could be absorbed within existing resources.

In response to a similar version of this proposal, officials from the **Missouri Ethics Commission Office of Administration - Division of Personnel, Department of Transportation, Office of Prosecution Services, Department of Higher Education, Department of Conservation** and the **Office of Prosecution Services** each assumed the proposal would either not fiscally impact their respective agencies or impact their agencies by a minimal amount that could be absorbed within existing resources.

Oversight assumes the provisions allowing state agencies to require fingerprinting of applicants and criminal history records checks are permissive. Therefore, Oversight has ranged the cost from \$0 to \$36,720 per fiscal year to various state funds.

Oversight assumes the MHP will continue to waive the name background check fees to state agencies.

This proposal would increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE			
<u>Costs - Missouri Highway Patrol</u>			
Per diem, mileage and travel expenses for retired patrol members testifying in a court proceeding at least 30 miles from their residence	(Under <u>\$100,000</u>)	(Under <u>\$100,000</u>)	(Under <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Under <u>\$100,000</u>)	(Under <u>\$100,000</u>)	(Under <u>\$100,000</u>)
CRIMINAL RECORDS FUND			
<u>Revenues - Missouri Highway Patrol</u>			
Fees from record checks (name) from \$5 to \$9 per record	\$2,303,333	\$2,764,000	\$2,764,000
<u>Revenue - Missouri Highway Patrol</u>			
Fees from record checks (fingerprint) from \$14 to \$20 per record	\$565,000	\$678,000	\$678,000
<u>Revenue - Missouri Highway Patrol</u>			
Fees from record checks (name) from \$9 to \$10 on January 1, 2010	<u>\$0</u>	<u>\$0</u>	<u>\$345,500</u>
ESTIMATED NET EFFECT TO THE CRIMINAL RECORDS FUND	<u>\$2,868,333</u>	<u>\$3,442,000</u>	<u>\$3,787,500</u>
VARIOUS STATE FUNDS			
<u>Costs - Various state agencies</u>			
To Criminal Records Fund for fingerprint background checks (43.546)	<u>\$0 to (\$36,720)</u>	<u>\$0 to (\$36,720)</u>	<u>\$0 to (\$36,720)</u>
ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS	<u>\$0 to (\$36,720)</u>	<u>\$0 to (\$36,720)</u>	<u>\$0 to (\$36,720)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
POLITICAL SUBDIVISIONS			
<u>Costs - School Districts</u>			
Background/fingerprint requests	<u>(\$288,305)</u>	<u>(\$348,563)</u>	<u>(\$408,821)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>(\$288,305)</u>	<u>(\$348,563)</u>	<u>(\$408,821)</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act requires the Highway Patrol, at the direction of the Governor, to conduct name or fingerprint background investigations of gubernatorial appointees. The Governor's directive shall state whether such background investigation shall be a name or fingerprint background investigation. If a fingerprint background investigation is ordered, the appointee must submit a set of fingerprints. These fingerprints and the accompanying fees are forwarded to the Highway Patrol to search the state criminal history repository and the FBI for a national criminal background check.

In addition to the name and fingerprint background investigations, the Highway Patrol may, at the Governor's direction, conduct other investigations to determine if an applicant or appointee has paid his or her required taxes and establish the person's suitability for positions of public trust.

The background investigations may include criminal history record information and other source information obtained by the Highway Patrol.

Currently, an entity making a request, as required by law, for criminal history record information that is not based on a fingerprint search must pay a fee of not more than \$5 per request. Entities making requests not required by law cannot be charged more than \$10. Under this act, an entity cannot be made to pay more than \$9 dollars for such a request regardless of whether required by law. However, after January 1, 2010, the Superintendent of the Highway Patrol may increase the fee by not more than \$1 per year. Under no circumstances shall the fee exceed \$15 dollars per request.

FISCAL DESCRIPTION (continued)

Currently, an entity making a request for criminal history record information that is based on a fingerprint search must pay a fee of not more than \$14 per request when such request is required by law. When not required by law, the entity may be charge not more than \$20 for such request. Under this act, an entity cannot be charged a fee of more than \$20 dollars for criminal history record information based on a fingerprint search, unless the request is required by the concealed carry endorsement statute or foster parent licensing statute, in which case, the fee shall be \$14.

This act allows any state agency, board, or commission to require an applicant to provide fingerprints in specified occupations or appointments for the purposes of positive identification and receiving criminal history record information when determining the applicant's ability to serve in such an occupation or appointment.

In order to do so, the applicant or employee must submit a set of fingerprints. These fingerprints and the accompanying fees are forwarded to the Highway Patrol to search the state criminal history repository and the FBI for a national criminal background check. All records related to any criminal history information discovered shall be accessible to the state agency making the request.

Also, subject to appropriation, the bill establishes a per diem, mileage, and travel reimbursement compensation for retired State Highway Patrol officers who are required to perform as a witness in an official court proceeding more than 30 miles from their residence. Currently, retired officers are not reimbursed for any expenses incurred as a result of testimony required in trials that extend beyond their retirement date.

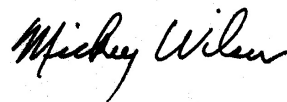
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety
Department of Revenue
Office of the State Treasurer
Department of Higher Education
Joint Committee on Public Employee Retirement
Office of the State Auditor
Department of Economic Development
Office of the Lieutenant Governor

SOURCES OF INFORMATION (continued)

Department of Labor and Industrial Relations
Department of Conservation
Office of the State Courts Administrator
Missouri Consolidated Health Care Plan
Office of Prosecution Services
State Tax Commission
Missouri Senate
Office of the State Public Defender
Department of Public Safety
Department of Elementary and Secondary Education
Missouri Gaming Commission
Lottery Commission
Office of the Secretary of State
Department of Mental Health
Missouri House of Representatives
Department of Corrections
Department of Natural Resources
Department of Agriculture
Department of Transportation
Department of Health and Senior Services
Office of Administration
Department of Social Services
Office of the Attorney General
Office of Prosecution Services
Missouri Ethics Commission



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