

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4506-01  
Bill No.: HB 1852  
Subject: Children and Minors: Consumer Protection; Crimes and Punishment; Law  
Enforcement Officers and Agencies; Science and Technology  
Type: Original  
Date: March 3, 2008

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Bill Summary: Revises the crimes of harassment and stalking and adds them to the list of crimes schools must report to law enforcement.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue 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 2009	FY 2010	FY 2011
<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 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
<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 FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ 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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Public Safety - Office of the Director** and the **Missouri State Highway Patrol** state this proposal will have no fiscal impact on their agency.

Officials from the **Office of State Courts Administrator** state this proposal has no fiscal impact on the Courts.

Officials from the **Department of Social Services (DOS)** state that, acting in their capacity as a school district, the Division of Youth Services already has a discipline policy in place. Adding two crimes to the list would have little or no affect. The rest of the proposal deals with criminal statutes and does not directly impact the DOS. Therefore, there is no fiscal impact to DOS.

Officials from the **Department of Elementary and Secondary Education (DESE)** state 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 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.

The proposal adds harassment and stalking to the list of crimes school districts are required to report to the appropriate law enforcement agency. The proposal also appears to expand the definitions of harassment and stalking such that school districts would have to report instances which currently do not require reporting. DESE defers to the local school districts regarding processes and costs involved with this increased reporting requirement.

**Oversight** assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Office of the State Public Defender (SPD)** assume this new crime will

ASSUMPTION (continued)

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 **Office of Attorney General (AGO)** assume this proposal may result in additional criminal cases and therefore in additional criminal appeals handled by the AGO. AGO assumes that the number of additional cases will be modest and that any additional costs can be absorbed with existing resources.

Officials from the **Department of Corrections (DOC)** assume they cannot currently predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY07 average of \$41.21 per inmate per day, or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender per day, or an annual cost of \$887 per offender).

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

ASSUMPTION (continued)

Officials from the **Francis Howell School District** and the **Springfield School District** assumed no fiscal impact to their respective districts as a result of the proposed legislation.

Officials from the **Jefferson City Police Department, the Boone County Sheriff's Department,** and the **Springfield Police Department** state there is no fiscal impact to their respective departments.

This proposal was sent to several other school districts and local law enforcement agencies who did not respond to a request for fiscal impact.

**Officials from the Office of Prosecution Services did not respond to Oversight's request for fiscal impact.**

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
<b>GENERAL REVENUE</b>			
<u>Cost - Department of Corrections</u>			
Incarceration/probation costs	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>

FISCAL IMPACT - Small Business

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

### FISCAL DESCRIPTION

The proposed legislation modifies provisions relating to crimes of stalking and harassment. This proposal expands the crime of harassment to include actions in which the person:

- (1) Knowingly communicates a threat to commit any felony to another person in order to frighten, intimidate, disturb, or cause emotional distress to the other person;
- (2) Communicates with another person and knowingly uses coarse language or expressions that are unwanted and offensive to the average sensibility;
- (3) Knowingly frightens, intimidates, disturbs, or causes emotional distress to another person by making a telephone call anonymously;
- (4) Knowingly communicates with another person who is, or purports to be, 17 years of age or younger and without good cause recklessly frightens, intimidates, disturbs, or causes emotional distress to the other person or knowingly makes a misrepresentation or conceals a material fact relating to the identity, age, residence, or location of himself or herself;
- (5) Knowingly makes repeated unwanted communications to another person; or
- (6) Recklessly and without good cause engages in any other act that frightens, intimidates, disturbs, or causes emotional distress to another person.

The crime of harassment is a class A misdemeanor unless it is committed by a person 21 years of age or older against a person 17 years of age or younger; the person knowingly communicates a threat to commit a felony with the purpose of frightening, intimidating, disturbing, or causing emotional distress to the other person; or the person has pled guilty to or been found guilty of a previous harassment violation or a municipal ordinance, other state law, or federal or military offense relating to harassment in which case the person will be guilty of a class D felony.

The proposal also revises the crime of stalking by eliminating the requirement that a person must repeatedly harass or follow with the intent of harassing another person. A person is guilty of the crime of aggravated stalking if he or she purposely harasses or follows with the intent of harassing another person and makes a credible threat; acts in violation of an order of protection and the person has received actual notice of the order; acts in violation of a condition of probation, parole, pretrial release, or release on bond pending appeal; the other person is 17 years of age or younger and the person is 21 years of age or older; or the person has previously pled guilty to or been found guilty of domestic assault, violation of an order of protection, or any other crime where the other person was the victim.

FISCAL DESCRIPTION (continued)

The crime of stalking is a class A misdemeanor unless the person has previously pled guilty to or been found guilty of a stalking or aggravated stalking violation or a municipal ordinance, other state law, or federal or military offense relating to stalking in which case the person will be guilty of a class D felony. The proposal increases the penalty for the crime of aggravated stalking from a class D felony to a class C felony and specifies that if the person has previously pled guilty to or been found guilty of a stalking or aggravated stalking violation or a municipal ordinance, other state law, or federal or military offense relating to stalking the person will be guilty of a class B felony.

Federal, state, county, or municipal law enforcement officers conducting investigations of a violation of federal, state, county, or municipal law will not be guilty of stalking or aggravated stalking.

School administrators must report any acts of harassment or stalking committed on school property to the appropriate law enforcement agency.

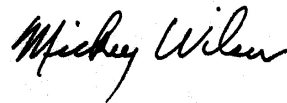
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

**SOURCES OF INFORMATION**

Office of Attorney General  
Office of State Courts Administrator  
Department of Elementary and Secondary Education  
Department of Corrections  
Department of Public Safety  
    Office of the Director  
    Missouri State Highway Patrol  
Office of State Public Defender  
School Districts  
    Francis Howell  
    Springfield  
Local Law Enforcement  
    Boone County Sheriff's Department  
    Springfield Police Department  
    Jefferson City Police Department

**NOT RESPONDING**

**Office of Prosecution Services**



Mickey Wilson, CPA  
Director  
March 3, 2008