

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0700-02
Bill No.: Perfected HCS for HB 303
Subject: Counties; Mortgages and Deeds; Courts; Crimes and Punishment
Type: Original
Date: April 11, 2017

Bill Summary: This proposal establishes the offense of filing false documents.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$184,428)	(\$156,668)	(\$188,041)
Total Estimated Net Effect on General Revenue	(\$184,428)	(\$156,668)	(\$188,041)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Corrections (DOC)** assume this proposal removes a Class E felony for filing false documents in RSMo 400.9-501 and replaces it with a Class D/Class C felony in the newly created RSMo 570.095.

The language in the newly created section is more specific than that in the current statute, and allows for a Class D felony for first time offenders, with an enhancement to class C for repeat offenders or offenses against certain government officials, police, fire fighters, etc. While this change makes the legislation more clear, it does not appear that any new actions would be considered a crime under these changes.

The current legislation found in RSMo 400.9-501 was modified in 2014 to introduce the criminal penalty. No charge code was ever created for this statute, and the legislation is still quite new, meaning that good data for the current impact is unknown. Thus, this will be treated as a new offense; further, as this offense is expected to be quite rare, only the D felony version will be considered. The standard response for a new non-violent D felony is found below. Under this situation, 3 individuals will be sentenced to prison and 5 to probation in each fiscal year. For incarcerated individuals, the average sentence is 4.8 years, with a total of 2.9 years in prison and 1.9 years on parole; the probationers serve a 3.0 year term.

If this impact statement has changed from statements submitted in previous years, it is because the department's Budget and Research Section reviewed the way responses had been submitted and has developed a more precise way to calculate the impact. In previous year's responses, the full impact of recidivism for parole releases was not adequately calculated. Now we have been able to quantify the fact that some parolees are returned to prison after release and that has been added into the calculation of the impact. The total number of offenders has not changed but there is an assumption that they will spend more time back in prison rather than being on community supervision, which will increase the amount of the impacts.

The FY 2016 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

The DOC would assume this legislation will result in long term costs as indicated in the chart below.

ASSUMPTION (continued)

	# to Prison	Cost per year	Total Cost Prison	# to Probation & Parole	Cost per year	Total Cost P&P	Grand Total P&P
Year 1	3	(\$6,085)	(\$18,255)	5	(\$2,234)	(\$11,170)	(\$24,521)
Year 2*	6	(\$6,085)	(\$36,510)	10	(\$2,234)	(\$22,340)	(\$60,027)
Year 3*	8.7	(\$6,085)	(\$52,940)	15.3	(\$2,234)	(\$34,180)	(\$90,639)
Year 4*	8.7	(\$6,085)	(\$52,940)	18.3	(\$2,234)	(\$40,882)	(\$99,564)
Year 5*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$107,359)
Year 6*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$109,506)
Year 7*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$111,697)
Year 8*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$113,930)
Year 9*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$116,209)
Year 10*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$118,533)

* Includes 2% inflation

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if the proposal results in a significant increase in cases.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of intentionally filing a fraudulent financing statement or any financing statement with the Secretary of State with the intent to harass or defraud any other person. This offense would be a new Class D Felony, unless the offense meets other circumstances, then it becomes a Class C Felony.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the State Public Defender's Office can absorb the additional caseload that may result from this proposal.

Officials from the **Office of the Secretary of State (SOS)** file more than 155,000 UCC filings per year, so additional staff would be needed to conduct the additional review this proposal requires. It is anticipated that two new FTEs would need to be created with salaries at \$29,000 per year. Missouri law requires the SOS to file UCC filing within three business days of receipt; therefore, these filings would have to be prioritized for this additional review to comply with

ASSUMPTION (continued)

these guidelines. RSMo § 400.9-519(h).

The estimate for one-time IT costs (\$80,000) is based on previous experiences contracting with vendors to make changes to existing software. The estimate that two additional full-time employees would be needed is based upon the estimate of how many UCC filings would be reviewed per year (150,000).

In response to a previous version, officials at **St. Charles County** assumed there would be a minimal fiscal impact for maintaining a spreadsheet of suspect documents and emailing them to law enforcement.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, Department of Public Safety - Missouri Highway Patrol, Office of the State Courts Administrator and Office of Prosecution Services** each assumed the proposal would have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Boone County Sheriff's Department** and **Cole County Sheriff** each assumed the proposal would have no fiscal impact on their respective organizations.

House Amendment 1

Oversight notes House Amendment 1 states that the prevailing party in the court case shall be awarded all reasonable costs and fees incurred by that party in the action. Oversight assumes House Amendment 1 does not change the fiscal impact of the proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
<u>Cost</u> - DOC - incarceration and/or supervision of offenders	(\$24,521)	(\$60,027)	(\$90,639)
<u>Costs</u> - SOS			
Personal Services	(\$48,333)	(\$58,580)	(\$59,166)
Fringe Benefits	(\$31,574)	(\$38,061)	(\$38,236)
One-time IT cost	<u>(\$80,000)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs</u> - SOS	<u>(\$159,907)</u>	<u>(\$96,641)</u>	<u>(\$97,402)</u>
FTE Change - SOS	2 FTE	2 FTE	2 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$184,428)</u>	<u>(\$156,668)</u>	<u>(\$188,041)</u>
Estimated Net FTE Change to the General Revenue Fund	2 FTE	2 FTE	2 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2018 (10 Mo.)	 FY 2019	 FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill creates the offense of filing a false document, which is committed if a person files, causes to be filed, or attempts to file, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, or transferred to the Secretary of State or his or her designee, any county recorder of deeds or his or her designee, any municipal, county, district, or state government entity or office, or any credit bureau or financial institution specified documents. For the first offense, filing a false document is a class D felony. Filing false documents is a class C felony in certain specified instances.

FISCAL DESCRIPTION (continued)

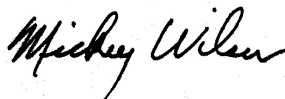
Any person who is found guilty of committing such offense will be ordered to make full restitution to any person or entity that has sustained any actual losses as a result of the commission of such offense.

The bill specifies that a system must be created, by January 1, 2018, in which suspicious filings are logged, and outlines the process for petitioning the court when a person has probable cause to believe a filing is fraudulent.

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 Corrections
Office of the Secretary of State
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Insurance, Financial Institutions and Professional Registration
Department of Public Safety - Missouri Highway Patrol
Attorney General's Office
Cole County Sheriff
Boon County Sheriff's Department
St. Charles County



Mickey Wilson, CPA
Director
April 11, 2017

Ross Strobe
Assistant Director
April 11, 2017