

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0262-02
Bill No.: Perfected HCS for HB 107
Subject: Animals; Disabilities
Type: Original
Date: March 14, 2019

Bill Summary: This proposal modifies provisions relating to service dogs.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--------------------------------------------------------------|------------------------------|------------------------------|------------------------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| General Revenue | (Less than \$100,000) | (Less than \$100,000) | (Less than \$100,000) |
| Total Estimated Net Effect on General Revenue | (Less than \$100,000) | (Less than \$100,000) | (Less than \$100,000) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|-----------------------------------------------------------------------|------------|------------|------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|-----------------------------------------------------------------------|------------|------------|------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|-----------------------------------------------------------|----------|----------|----------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

☐ 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 2020 | FY 2021 | FY 2022 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

§§209.150, 209.200 and 209.204 - Service dogs

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crimes regarding the misrepresentation of a dog as a service dog - a new class C misdemeanor. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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 notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, **Oversight** assumes the SPD is at maximum capacity and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, **Oversight** assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state §209.204.4 requires the Missouri Commission on Human Rights (MCHR) to use its existing complaint hotline to receive reports and refer the alleged violations to appropriate law enforcement agencies. MCHR estimates it will get up to 1,500 calls per year, averaging ten minutes per call. Using this estimate, MCHR will require an additional 0.12 FTE (1,500 calls X 10 minutes/call = 15,000 ÷ 60 minutes = 250 hours ÷ 2,080 hours = 0.12). A Senior Office Support Assistant (\$30,088 annually) would take these calls and refer them to the appropriate law enforcement agency.

ASSUMPTION (continued)

Space is required for 1 FTE at an estimated cost of \$3,600 per year and the FTE will be located in Cole County. However, DOLIR believes this staff can be housed in existing locations.

Estimated Costs:

| | FY 20 | FY 21 | FY 22 |
|----------------------------------------------------|------------------------|-----------------------|-----------------------|
| Personal service (0.12 FTE/\$30,088 annual salary) | \$3,009 | \$3,647 | \$3,647 |
| Fringe benefits | \$2,178 | \$2,625 | \$2,625 |
| Equipment (one-time costs) | \$8,663 | \$0 | \$0 |
| Expenses (on-going) | <u>\$520</u> | <u>\$631</u> | <u>\$631</u> |
| Total Expenses | <u>\$14,370</u> | <u>\$6,902</u> | <u>\$6,902</u> |

DOLIR anticipates being able to absorb these costs.

Oversight assumes DOLIR will not hire additional staff and will use existing staff to cover the costs related to implementing this proposal. Therefore, Oversight will reflect a zero impact on the fiscal note for DOLIR.

Officials from the **Office of Administration (OA)** assume the proposal will have no fiscal impact on their organization.

Oversight contacted OA officials about increased duties for the Governor's Council on Disability (GCD) under §209.204.5 and .6. These paragraphs require the GCD to prepare and make available online a placard suitable for posting in the front window or door, stating that service dogs are welcome and that misrepresentation of a service dog is a violation of Missouri law. The GCD is to create a brochure detailing permissible questions a business owner may ask in order to determine whether a dog is a service dog, proper answers to those questions, and guidelines defining unacceptable behavior. In addition, the GCD is to prepare and make available online a brochure for landlords and tenants regarding laws relating to service dogs and assistance animals and housing under federal and Missouri law.

OA officials stated the GCD assumes this proposal is only requiring them to post these items online and the time it would take to design something and place it on their web would be minimal and could be completed with existing resources. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

Oversight notes that the **Missouri Office of Prosecution Services** have stated the proposal would not have a fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

ASSUMPTION (continued)

Oversight notes that the **Department of Agriculture**, the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Public Safety**, **Missouri State Highway Patrol**, the **Department of Social Services**, the **Office of the Governor**, and the **Office of State Courts Administrator** have stated the proposal would not have a fiscal impact on their organizations. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

In response to the previous version of this proposal, officials from **Office of Secretary of State**, the **Boone County Sheriff's Department**, the **Joplin Police Department**, the **Springfield Police Department**, the **St. Louis County Police Department**, and the **St. Louis County Department of Justice Services** stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other police departments and sheriffs' offices were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

House Amendment (HA) #1

Oversight assumes HA #1 has no fiscal impact based on the agency responses provided above.

House Amendment (HA) #2

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state HA 2 adds the new crime of filing a false complaint regarding service dogs - a new class C misdemeanor. SPD cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with this proposed new crime. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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 notes the SPD's response to the original House Committee Substitute indicated the SPD could not assume existing staff would be able to provide effective representation for any new cases arising where indigent persons are charged with the proposed new crimes regarding

ASSUMPTION (continued)

the misrepresentation of a dog as a service dog - a new class C misdemeanor. HA 2 adds an additional class C misdemeanor for the new crime of filing a false complaint regarding service dogs. For both misdemeanors the SPD indicated the number of new cases may be too few or uncertain to request additional funding.

Based on the fact that over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018), **Oversight** assumes the SPD is at maximum capacity and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources. Therefore, Oversight will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund for all new class B & C misdemeanors provided for by this proposal for the SPD.

| <u>FISCAL IMPACT - State Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
|-------------------------------------------------------------|-----------------------------------------|-----------------------------------------|-----------------------------------------|
| GENERAL REVENUE FUND | | | |
| <u>Costs - SPD (§§209.150, 209.200 and 209.204)</u> | | | |
| Personal service, fringe benefits and equipment and expense | <u>(Less than \$100,000)</u> | <u>(Less than \$100,000)</u> | <u>(Less than \$100,000)</u> |
| ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND | <u>(Less than \$100,000)</u> | <u>(Less than \$100,000)</u> | <u>(Less than \$100,000)</u> |
| <u>FISCAL IMPACT - Local Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
| | <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 specifies that anyone who knowingly misrepresents a dog as a service dog for the purpose of receiving the accommodations afforded service dogs under the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., is guilty of a class C misdemeanor and liable for any actual damages resulting from the misrepresentation. Any subsequent violation is a class B misdemeanor.

This bill also specifies that anyone who knowingly misrepresents an animal as an assistance animal for the purpose of receiving the accommodations afforded assistance animals under the Fair Housing Act, 42 U.S.C. Section 3601 et seq., or the Rehabilitation Act, 29 U.S.C. Section 701 et seq. is guilty of a class C misdemeanor and liable for any actual damages resulting from the misrepresentation. Any subsequent violation is a class B misdemeanor.

HA 2 provides that any person who intentionally files a false complaint under subsection 4 of section 209.204 of the proposal is guilty of a class C misdemeanor. Any second or subsequent violation is a class B misdemeanor.

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 Agriculture
Department of Health and Senior Services
Department of Mental Health
Department of Labor and Industrial Relations
Department of Public Safety -
 Missouri State Highway Patrol
Department of Social Services
Office of the Governor
Missouri Office of Prosecution Services
Office of Administration
Office of State Courts Administrator
Office of Secretary of State
Office of State Public Defender

SOURCES OF INFORMATION (continued)

Boone County Sheriff's Department
Joplin Police Department
Springfield Police Department
St. Louis County Police Department
St. Louis County Department of Justice Services



Kyle Rieman
Director
March 14, 2019

Ross Strobe
Assistant Director
March 14, 2019