

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0909-03  
Bill No.: HCS for HB 444  
Subject: Law Enforcement Officers and Agencies; Property, Real and Personal; Civil Procedure; Criminal Procedure  
Type: Original  
Date: February 25, 2019

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Bill Summary: This proposal establishes provisions relating to asset forfeiture.

**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<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 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Federal Funds	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>(Unknown, greater than \$100,000)</b>	<b>(Unknown, greater than \$100,000)</b>	<b>(Unknown, greater than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Local Government*</b>	<b>Up to \$653,884</b>	<b>Up to \$784,660</b>	<b>Up to \$784,660</b>

\*Reduced seized property proceeds to police departments/sheriffs departments offset by gains to local school districts.

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Public Safety's Missouri Highway Patrol** assume an unknown impact from this proposal. This legislation would prohibit the Patrol from receiving any federal sharing of forfeiture assets as the federal government would now choose to retain them. This would also affect all state drug task forces, as it would significantly reduce their operating budgets. The Patrol is unable to determine the dollar amount of this impact, as it cannot foresee any seizure it might have otherwise received.

In response to a previous version, officials at the **St. Louis County Police Department** assumed this proposal prohibits law enforcement agencies from transferring seized property to a federal agency in forfeiture litigation except if the seized property is \$100,000 or more in currency. Captain Boschert, the subject matter expert for St. Louis County Police, advised that the proposed legislation contradicts federal law and would cost the Department over \$100,000 in forfeiture funds.

**Oversight** inquired the St. Louis County Police Department about what federal statute was being contradicted and has not received a response from the Department.

In response to a previous version, officials at the **Jefferson County Sheriff's Office** assumed an annual cost of \$100,000 from this proposal.

In response to similar legislation in 2018, HB 1501, officials at the **Greene County Sheriff's Department** assumed a cost of several hundred thousand dollars per year.

In response to similar legislation in 2018, HB 1501, officials at the **Springfield Police Department (SPD)** assumed a cost of \$78,000 in forfeiture funds each year. The \$78,000 would have been the amount remitted back to SPD by the federal agency to purchase needed law enforcement equipment and to fund training.

In response to similar legislation in 2018, HB 1501, officials at the **Joplin Police Department (JPD)** assumed an unknown negative fiscal impact. The vast majority of the JPD's cases that go federal and are seized are less than \$100,000.

Officials at the **Office of the Attorney General**, the **Office of the State Courts Administrator** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

In response to a previous version, officials at the **Office of the State Public Defender** assumed no fiscal impact from this proposal.

**Oversight** assumes the appropriate school districts would receive the proceeds of the seized property referred to in this bill. Therefore, Oversight reflect an offsetting gain to local school districts, netting the fiscal impact to political subdivisions to zero.

**Oversight** notes that the Office of the Attorney General, the Office of the State Courts Administrator, the Office of the State Public Defender and the Office of Prosecution Services each has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Officials at the **St. Louis County Department of Justice Service** and the **Wellsville-Middletown R-1 School District** each assume no fiscal impact to their respective entities from this proposal.

In response to similar legislation from 2018, HB 1501, officials at the **Boone County Sheriff's Department** assumed no fiscal impact from this proposal.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other local law enforcement agencies and school districts 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](http://www.legislativeoversight.mo.gov).

**Oversight** notes the following dollar value of dispositions by seizures as reported by the State Auditor's Office report on Compilation of 2018 Criminal Activity Forfeiture Act Seizures:

	2018	2017	2016
Pending	\$2,067,837	\$2,542,029	\$2,588,046
Returned	\$571,892	\$679,549	\$482,142
Transferred to Federal Agency	\$5,767,867	\$3,256,377	\$2,745,658
Transferred to State	\$100,915	\$180,363	\$97,067
Other	\$44,658	\$72,354	\$15,680
Disposition not reported	\$549,548	\$322,784	\$324,733
Total	\$9,102,717	\$7,053,456	\$6,253,326

Source: Office of the State Auditor's Report

**ASSUMPTION** (continued)

The State Auditor's report states the overall dollar value for property seized in 2018 was \$9,102,717. Of that total, \$571,892 was returned, \$5,767,867 was transferred to a federal agency, and \$100,915 was transferred to the state. The disposition for \$2,067,837 was pending at the time of the report and no disposition was reported for \$549,548. There were also 699 reported seizures, of which 318 had criminal charges filed.

**Oversight** notes the average value of property transferred to a federal agency during the three years reported above is \$3,923,300  $((\$5,767,867 + \$3,256,377 + \$2,745,658)/3)$ . Oversight notes the proposal states that no property seized under state law may be transferred to the federal government. Oversight is unsure if all of the property totaled in the Office of the State Auditor report was seized under state law. Therefore, Oversight will assume this will result in a reduction of seized property being transferred to the federal government of "up to" approximately \$3,923,300 each year and will, instead, be transferred to local school districts. Oversight understands that of the property transferred to the federal government, a portion is then transferred back to the law enforcement agency. Therefore, Oversight will reflect a loss to law enforcement of approximately \$3,138,640  $(\$3,923,300 \times 80\%)$  per year.

**Oversight** is unable to determine how much impact, if any, this would have on the Missouri Highway Patrol. Therefore, Oversight will reflect a loss of unknown that is greater than \$100,000 in asset seizure proceeds being returned from the federal government to the Missouri Highway Patrol.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>FEDERAL FUNDS</b>			
<u>Loss</u> - to Highway Patrol - sharing in seized assets with federal authorities	(Unknown, greater than <u>\$100,000</u> )	(Unknown, greater than <u>\$100,000</u> )	(Unknown, greater than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b>(Unknown, greater than <u>\$100,000</u>)</b>	<b>(Unknown, greater than <u>\$100,000</u>)</b>	<b>(Unknown, greater than <u>\$100,000</u>)</b>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Gain</u> - school districts - proceeds of seized property - instead of property transferred to federal government	Up to \$3,269,417	Up to \$3,923,300	Up to \$3,923,300
<u>Loss</u> - Local law enforcement agencies - seized property must <u>not</u> be transferred to a federal agency - therefore, local law enforcement agencies would not receive back a portion of the seized property from the federal agency	Up to <u>(\$2,615,533)</u>	Up to <u>(\$3,138,640)</u>	Up to <u>(\$3,138,640)</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>Up to \$653,884</u></b>	<b><u>Up to \$784,660</u></b>	<b><u>Up to \$784,660</u></b>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill prohibits law enforcement agencies and prosecuting authorities from entering into agreements to transfer or refer seized property to a federal 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

St. Louis County Police Department  
Jefferson County Sheriff's Office  
Greene County Sheriff's Department  
Springfield Police Department  
Joplin Police Department  
Department of Public Safety  
Missouri Highway Patrol  
Office of the Attorney General  
Office of the State Courts Administrator  
Office of the State Public Defender  
Office of Prosecution Services  
Boone County Sheriff's Department  
St. Louis County Department of Justice Services  
Wellsville-Middletown R-1 School District



Kyle Rieman  
Director  
February 25, 2019

Ross Strobe  
Assistant Director  
February 25, 2019