

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2047-01
Bill No.: HB 954
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: April 19, 2019

Bill Summary: This proposal creates new criminal offenses involving critical infrastructure facilities.

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 6 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 or Unknown	\$0 or Unknown	\$0 or Unknown

FISCAL ANALYSIS

ASSUMPTION

§569.086 - Critical infrastructure facilities

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 crime of willful trespass on a critical infrastructure facility - a new class B misdemeanor. If the intent was to damage, the offense is a new class A misdemeanor. If there is damage, the offense would be a new class C felony. 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.

Oversight notes that according to the Office of the State Courts Administrator, there was 1,281 guilty pleas or verdicts for Section 569.140 (Trespass - 1st degree) and 9 guilty pleas or verdicts for Section 569.145 (Trespass on Real Property Marked as Required) in FY18. Both of these offenses are class B misdemeanors.

ASSUMPTION (continued)

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

Oversight notes that the **Department of Corrections, Department of Public Safety (Missouri State Highway Patrol and State Emergency Management Agency), Office of State Courts Administrator, City Utilities of Springfield Missouri and Metropolitan St. Louis Sewer District** have stated the proposal would not have a direct fiscal impact on their 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 utilities, water districts, sewer districts, solid waste districts and levee 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.

Oversight assumes that if there are fines assessed from these provisions, the fine revenue would be paid to the local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula the following year.

This proposal contains an emergency clause.

<u>FISCAL IMPACT - State Government</u>	FY 2020	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Costs - SPD (\$569.086)</u>			
Salaries, 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>

FISCAL IMPACT - Local Government

FY 2020

FY 2021

FY 2022

LOCAL GOVERNMENTS - SCHOOL DISTRICTS

Revenue - (\$569.086)

Fine revenue from violations

\$0 or
Unknown

\$0 or
Unknown

\$0 or
Unknown

**ESTIMATED NET EFFECT TO
LOCAL GOVERNMENTS - SCHOOL DISTRICTS**

**\$0 or
Unknown**

**\$0 or
Unknown**

**\$0 or
Unknown**

FISCAL IMPACT - Small Business

This proposal may impact small businesses with “critical infrastructure” facilities.

FISCAL DESCRIPTION

This bill creates the offense of willful trespass on a critical infrastructure facility. "Critical infrastructure facility" is defined in the bill. A person commits the offense of willful trespass on a critical infrastructure facility if he or she willfully trespasses or enters property containing a critical infrastructure facility without the permission of the property owner or a lawful occupant of the property. The offense of willful trespass on a critical infrastructure facility is a class B misdemeanor. However, if it determined that the intent of the trespasser is to damage, destroy, vandalize, deface, tamper with equipment, or impede or inhibit operations, the person will be guilty of a class A misdemeanor.

A person commits the offense of willful damage of a critical infrastructure facility if he or she willfully damages, destroys, vandalizes, defaces, or tampers with equipment in a critical infrastructure facility. Such offense is a class C felony.

If an organization is found to be a conspirator with persons who are found to have committed any of the specified offenses, the conspiring organization will be punished by a fine that is 10 times the amount of the fine set forth in the bill.

This bill contains an emergency clause.

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
Department of Public Safety -
 Missouri State Highway Patrol
 State Emergency Management Agency
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
City Utilities of Springfield Missouri
Metropolitan St. Louis Sewer District



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April 19, 2019

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