

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2347-01
Bill No.: HB 1151
Subject: Crimes and Punishment; Criminal Procedure; Sexual Offenses; Highway Patrol
Type: Original
Date: March 11, 2019

Bill Summary: This proposal modifies provisions relating to the registration of sexual offenders.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

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
Federal	\$0 to (\$40,000)	\$0 to (\$40,000)	\$0 to (\$40,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (\$40,000)	\$0 to (\$40,000)	\$0 to (\$40,000)

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

§§589.400, 589.401, and 589.414 - Registration of sexual offenders

Officials from the **Department of Corrections (DOC)** state the proposed legislation modifies provisions relating to the registration of sexual offenders. The changes in 589.400 and 589.401 involve expungement to the registry which does not impact DOC.

The changes in the wording of subsections 589.414.5(1)(g), 589.414.7(2)(ff), and 589.414.7(2)(gg) may be construed as broadening the definition of what is a violation that requires registration on the sex offender registry. How judicial proceeding will interpret these changes is uncertain. Therefore, DOC is not able to estimate the impact.

In section 589.414.5(b), statute 566.083 on sexual misconduct with a child is moved from Tier I supervision to Tier II. This offense is a class E felony. Under current law, it reads that the offense is under Tier I if the punishment is less than one year. By definition, a felony has at least a one-year sentence. Therefore, this change has no impact on the number of persons under Tier I or II supervision.

The following offenses are new violations that require registration on the registry with listed convictions or plead guilty of a misdemeanor in FY18:

Tier I, II, or III

- 1) Statute 566.100 first-degree sexual abuse, age of victim determines supervision:
 - (Mocodes for victims >13 years: 11AAR, 11166, 11168, 22020, 22022, 22030, and 22031): 19 persons with age of the victim > 13 years.
 - (Mocodes for victims <14: 11164, 22021, 22041, and 22042): No violations with victims < 14 years;

Tier I

- 2) Statute 566.086 sexual contact with a student greater than 18 years (Mocodes 36AAL and 22023): 3 persons (the age of the victim is not known).
- 3) Statute 565.120 second-degree kidnapping (Mocodes 16030 and 10AAA): 37 persons
- 4) Statute 565.130 third-degree kidnapping (Mocodes 16040, 10AAB, 10AAC, and 16050): 26 persons

ASSUMPTION (continued)

Assuming one of the three violations of 566.086 occurred with a victim 18 years or older, then 64 new sex offenders (of statutes 566.086, 565.120, and 565.130) are under Tier I requirements and will be seen annually for their lifetime. This equates to 64 new visits to a probation officer per year.

The amount of supervision for a person convicted under statute 566.100 is determined by the age of the victim.

- No victims were less than 14 years old in FY18; thus, no violators of statute 566.100 require Tier III supervision.
- The age of the victims are unknown for the 19 violators of 566.100 (victims >13 years); for the purpose of this estimation, the assumption is that nine will be under Tier I and ten will be under Tier II. This equates to an additional 29 new visits to a probation officer per year.

The passage of this bill will result in 93 more office visits annually to a DOC probation officer. This is equivalent to eight more persons under supervision each year. Sex offender registry is a lifetime requirement for the offender. See Table 1 for the full impact. Additionally, it is estimated to increase the workload as if eight new persons are added annually to probation. By FY29, the additional workload is as if 80 new probationers are under field supervision.

Table 1. Impact of passage of HB 1151 (FN 2347-01).

	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	8	8	8	8	8	8	8	8	8	8
Change (After Legislation - Current Law)										
Admissions	0	0	0	0	0	0	0	0	0	0
Probations	8	8	8	8	8	8	8	8	8	8
Cumulative Populations										
Prison										
Parole										
Probation	8	16	24	32	40	48	56	64	72	80
Impact										
Prison Population										
Field Population	8	16	24	32	40	48	56	64	72	80
Population Change	8	16	24	32	40	48	56	64	72	80
P&P Officers + or -		0	0	0	0	0	0	0	0	0

ASSUMPTION (continued)

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	0	(\$6,287)	\$0	8	\$0	\$0	\$0
Year 2	0	(\$6,287)	\$0	16	\$0	\$0	\$0
Year 3	0	(\$6,287)	\$0	24	\$0	\$0	\$0
Year 4	0	(\$6,287)	\$0	32	\$0	\$0	\$0
Year 5	0	(\$6,287)	\$0	40	\$0	\$0	\$0
Year 6	0	(\$6,287)	\$0	48	\$0	\$0	\$0
Year 7	0	(\$6,287)	\$0	56	\$0	\$0	\$0
Year 8	0	(\$6,287)	\$0	64	\$0	\$0	\$0
Year 9	0	(\$6,287)	\$0	72	\$0	\$0	\$0
Year 10	0	(\$6,287)	\$0	80	\$0	\$0	\$0

Oversight notes although there is an impact to Probation and Parole (P&P) in regard to the number of individuals under field supervision, these offenders will not report to one P&P office but will report to various P&P offices throughout the state which lessens the impact to each individual location.

Oversight has requested additional information on the cost estimate of offenders reporting to P&P. Oversight has presented this fiscal note on the most current information that we have or on prior year information regarding a similar bill. Upon the receipt of additional information from DOC, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note. Because the DOC is unable to estimate the impact from the changes to definitions in 589.414.5(1)(g), 589.414.7(2)(ff), and 589.414.7(2)(gg), Oversight will reflect DOC's impact for fiscal note purposes as \$0 to (Unknown).

Oversight notes that the **Department of Public Safety - Missouri State Highway Patrol (MHP)** has stated the proposal would not have a direct fiscal impact on their organization. However, to avoid being penalized by the Sex Offender Registration and Notification Act (SORNA) and potentially lose ten percent of future grant funding, it is important Section 589.404, RSMo, defines "Sexual Conduct" in addition to "Sexual Contact".

ASSUMPTION (continued)

Oversight notes the Adam Walsh Act Grant may allocate up to \$400,000 each fiscal year. The amount of the grant funding varies depending on what is applied for and what is actually allocated. Over the past seven years, the MHP has averaged \$239,126 annually. The highest amount received was \$400,000, the lowest was \$163,385, and there was one year the MHP did not apply for any funding. The MHP states it could lose ten percent of the money awarded each year the MHP is not in compliance. Therefore, the impact to federal funds will be presented as \$0 to (\$40,000).

Oversight notes that the **Attorney General's Office, Department of Health and Senior Services, Department of Mental Health, Department of Social Services, Office of State Courts Administrator, Joplin Police Department and Springfield Police Department** 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 police and sheriffs' departments 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.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Costs - DOC (\$589.414)</u>			
Increased incarceration costs resulting from increased registration on the sex offender registry	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
FEDERAL FUNDS			
<u>Loss - MHP (\$589,414)</u>			
Reduction in Adam Walsh Act Grant funds	<u>\$0 to (\$40,000)</u>	<u>\$0 to (\$40,000)</u>	<u>\$0 to (\$40,000)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0 to (\$40,000)</u>	<u>\$0 to (\$40,000)</u>	<u>\$0 to (\$40,000)</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 removes an exemption from registration on the sexual offender registry when a registrant is no longer required to register and his or her name must be removed from the registry under the provisions of Section 589.414, RSMo.

The bill also removes sexual misconduct involving a child under Section 566.003, if it is a first offense and the punishment is less than one year from tier I of the registry. It also changes sexual abuse in the second degree, child molestation in the second degree as it existed prior to January 1, 2017, and sexual conduct with a nursing facility resident or vulnerable person in the first degree on tier I of the registry from when the punishment is less than a year to if the offense is a misdemeanor. Additionally, the bill adds certain offenses to tier I and certain offenses to tier II.

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

Attorney General's Office
Department of Health and Senior Services
Department of Mental Health
Department of Corrections
Department of Public Safety - Missouri State Highway Patrol
Department of Social Services
Office of State Courts Administrator
Joplin Police Department
Springfield Police Department



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March 11, 2019

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