

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4394-01
Bill No.: HB 1900
Subject: Attorneys; Attorney General; Counties; Cities, Towns, and Villages; St. Louis City; Crimes and Punishment; Civil Procedure
Type: Original
Date: February 28, 2020

Bill Summary: This proposal provides that a prosecuting or circuit attorney has immunity from civil suits and provides that a case a prosecuting or circuit attorney determines not to commence may be forwarded to the attorney general's office for prosecution.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	Could exceed (\$100,000)	Could exceed (\$100,000)	Could exceed (\$100,000)
Total Estimated Net Effect on General Revenue	Could exceed (\$100,000)	Could exceed (\$100,000)	Could exceed (\$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
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 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
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 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§56.900 and 56.905 - Cases forwarded to the Attorney General's Office

Officials from the **Attorney General's Office (AGO)** assume a negative fiscal impact of \$0 to Unknown.

In response to a similar proposal from 2019 (HB 541), officials from the AGO assumed the proposal would require four Assistant Attorneys General II (\$50,500 annually each), one Paralegal (\$42,000 annually), and one Legal Secretary (\$31,514 annually). These employees would be needed to address the increased workload resulting from the review of cases declined by local prosecutors.

Oversight assumes any additional litigation costs arising from this proposal will not be able to be absorbed with existing personnel and resources, and the AGO may seek additional appropriations if the proposal results in a significant increase in litigation. Therefore, the impact to the AGO will be presented as \$0 to (Unknown).

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state this proposed legislation could result in additional cases assuming the Attorney General files the case and the defendant is indigent. 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 \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed with 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.

ASSUMPTION (continued)

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 **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS.

Officials from the **St. Louis County Police Department** state the proposed legislation would need to update the Department's policy. Policy creation and updating would require eight hours of policy research and four hours of policy authoring. The average wage of the policy development position is \$46.69. Therefore, the total cost of policy development would be \$560.28.

Oversight assumes the St. Louis County Police Department is provided with core funding to handle a certain amount of activity each year. Oversight assumes the St. Louis County Police Department could absorb the costs related to this proposal.

Oversight notes the **Department of Public Safety - Missouri State Highway Patrol**, the **Office of State Courts Administrator**, the **Springfield Police Department**, and the **St. Louis County Department of Justice Services** have each 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 and sheriff's departments and county prosecutors were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE FUND			
<u>Costs - AGO (§56.071) Potential increase in the number of cases to prosecute, may include additional personnel</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs - SPD (§56.071) Salaries, fringe benefits, and equipment and expense</u>	<u>Less than</u> <u>(\$100,000)</u>	<u>Less than</u> <u>(\$100,000)</u>	<u>Less than</u> <u>(\$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Could exceed</u> <u>(\$100,000)</u>	<u>Could exceed</u> <u>(\$100,000)</u>	<u>Could exceed</u> <u>(\$100,000)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<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 a prosecuting or circuit attorney performing discretionary functions shall be immune from civil liability if his or her conduct does not violate a clearly established statutory or constitutional right.

Additionally, if a prosecuting or circuit attorney decides not to commence a case against a person after law enforcement notifies the attorney that there is probable cause of a violation of state law, law enforcement may forward the case to the Attorney General's Office for review. After review, if the Attorney General determines there is probable cause of a violation of state law, the Attorney General may prosecute the case in the county in which the offense was committed.

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 Public Safety - Missouri State Highway Patrol
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
Springfield Police Department
St. Louis County Department of Justice Services
St. Louis County Police Department



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February 28, 2020



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