

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4566-02
Bill No.: HCS for HB Nos. 1893, 2087 & 2169
Subject: Firearms; Crimes and Punishment; Weapons
Type: Original
Date: March 16, 2020

Bill Summary: This proposal establishes Blair's Law, which adds the discharging of a firearm within or into the limits of a municipality with criminal negligence to the offense of unlawful use of a weapon.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(Less than \$105,322)	(Less than \$113,027)	(Less than \$113,288)
Total Estimated Net Effect on General Revenue	(Less than \$105,322)	(Less than \$113,027)	(Less than \$113,288)

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 7 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

§571.031 - Blair's law

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 newly defined crime of Unlawful Use of a Weapon which carries differing levels of penalties. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In Fiscal Year 2019, SPD's Trial Division opened 609 cases under charge code 571.030 of the 62,002 total cases opened.

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.

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 Corrections (DOC)** state this bill makes it an unlawful to discharge a weapon in the limits of any municipality. This newly added subsection is known as Blair's Law. The penalty of unlawful use of weapons is a class E felony, for a first offense and a class D felony, for a second or subsequent offense.

ASSUMPTION (continued)

Section 571.031 creates a new nonviolent class E for the first violation of Blair's Law and a new nonviolent class D felony for a second or subsequent violation.

For each new nonviolent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be two additional offenders in prison and seven on field supervision by FY2023.

	# 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	1	(\$6,386)	(\$5,322)	2	absorbed	\$0	(\$5,322)
Year 2	2	(\$6,386)	(\$13,027)	4	absorbed	\$0	(\$13,027)
Year 3	2	(\$6,386)	(\$13,288)	7	absorbed	\$0	(\$13,288)
Year 4	2	(\$6,386)	(\$13,554)	7	absorbed	\$0	(\$13,554)
Year 5	2	(\$6,386)	(\$13,825)	7	absorbed	\$0	(\$13,825)
Year 6	2	(\$6,386)	(\$14,101)	7	absorbed	\$0	(\$14,101)
Year 7	2	(\$6,386)	(\$14,383)	7	absorbed	\$0	(\$14,383)
Year 8	2	(\$6,386)	(\$14,671)	7	absorbed	\$0	(\$14,671)
Year 9	2	(\$6,386)	(\$14,964)	7	absorbed	\$0	(\$14,964)
Year 10	2	(\$6,386)	(\$15,264)	7	absorbed	\$0	(\$15,264)

The bill also adds a new class D felony for second or subsequent violations of Blair's Law. However, as this is a new law, the impact of a second or subsequent offense will likely be after the 10 year span for fiscal review.

If this impact statement has changed from statements submitted in previous years, it is because the DOC has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2019, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2020

ASSUMPTION (continued)

fiscal notes. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 44 probation and parole districts.

The DOC cost of incarceration is \$17.496 per day or an annual cost of \$6,386 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

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 the **Attorney General's Office**, the **Department of Public Safety - (Missouri State Highway Patrol and Missouri National Guard)**, the **Department of Conservation**, the **Office of State Courts Administrator**, the **City of Kansas City**, the **City of O'Fallon**, 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.

In response to a previous version, Oversight notes the **St. Louis County Police Department** stated this 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 in the fiscal note for these agencies.

ASSUMPTION (continued)

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities and police and sheriff's departments 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>Cost</u> - SPD (§571.031) Salaries, fringe benefits, and equipment and expense	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Cost</u> - DOC (§571.031) Increased incarceration costs	<u>(\$5,322)</u>	<u>(\$13,027)</u>	<u>(\$13,288)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Less than \$105,322)</u>	<u>(Less than \$113,027)</u>	<u>(Less than \$113,288)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Small Business</u>			

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

FISCAL DESCRIPTION

This bill establishes "Blair's Law" which specifies that a person commits the crime of unlawful use of a weapon if, with criminal negligence, he or she discharges a firearm within or into the limits of any municipality. Any such person shall be guilty of a class E felony. These provisions will not apply if the firearm is discharged under the circumstances listed in the bill.

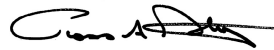
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Conservation
Department of Corrections
Department of Public Safety
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
City of Kansas City
City of O'Fallon
St. Louis County Police Department
St. Louis County Department of Justice Services
Springfield Police Department



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March 16, 2020



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