

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0816H.03P
 Bill No.: Perfected HCS for HB Nos. 178, 179 & 401
 Subject: Crimes and Punishment; Criminal Procedure; Aircraft and Airports
 Type: Original
 Date: March 30, 2023

Bill Summary: This proposal establishes the offense of unlawful use of an unmanned aircraft.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
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)

*Oversight does not have any other information to suggest that the civil judgements resulting from this proposal would go over the \$250,000 threshold at this time. Therefore, Oversight will assume the fund above will not reach that threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Other State and federal funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Legal Expense Fund**	\$0	\$0	\$0
Colleges and Universities***	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Oversight does not have any other information to suggest that the civil judgements resulting from this proposal would go over the \$250,000 threshold at this time. Therefore, Oversight will assume the funds above will not hit the threshold from this proposal.

**Income less cost distributions net to zero.

***Oversight assumes the fiscal impact to colleges and universities will not exceed the \$250,000 threshold. Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Various – transfer to Legal Expense Fund**	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Oversight does not have any other information to suggest that the civil judgements resulting from this proposal would go over the \$250,000 threshold at this time. Therefore, Oversight will assume the fund above will not hit the threshold from this proposal.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§§305.635, 305.637, 305.639, 305.641 – Unmanned aircraft

In response to the previous version of this proposal, officials from the **Missouri Highway Patrol (MHP)** assumed the waiver of sovereign immunity for Patrol personnel could result in significant financial exposure at trial. Due to the varied nature of unmanned aircraft operations, the fiscal impact to the Patrol would be unknown.

In response to the previous version of this proposal, officials from the **Office of Administration (OA)** assumed §§305.635 to 305.641 prohibits drones from being used to "conduct surveillance or observation" of any individual. This legislation has the potential to increase costs to the state Legal Expense Fund (LEF) for actions alleging a violation of these sections against a state agency or state employee in connection with their official duties on behalf of the state. §305.641.1 states that any aggrieved party may obtain all appropriate relief to prevent or remedy a violation, and under §305.641.3 sovereign immunity for the state is waived. Potential costs to the state are unknown.

The state self-assumes its own liability under the LEF, §105.711 RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

Oversight notes that the proposal makes local political subdivisions and colleges and universities subject to civil suits and therefore, Oversight will reflect possible costs to all state funds (including federal funds for transfers to the LEF). Oversight also notes that the LEF does not cover costs for local political subdivisions or colleges and universities in most cases.

In response to similar legislation from 2023 (HB 401), officials from the **Office of the State Courts Administrator**, the **Fruitland Area Fire Protection District**, and **Missouri Western State University** each assumed the proposal will have no 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.

House Amendment #1

Oversight assumes this amendment will have no additional fiscal impact.

§542.525 – Surveillance or game camera on private property

In response to similar legislation from 2022 (HB 2612), officials from the **University of Missouri**, the **City of Claycomo**, the **City of O’Fallon**, and the **City of St. Louis** each assumed the proposal will have no fiscal impact on their respective organizations for this proposal. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies for this section.

§577.800 – Unmanned aircraft over an open-air facility

In response to a previous version of this proposal, the **Office of the State Public Defender (SPD)** stated the change in classification under section 577.800 from an infraction to a misdemeanor or felony could result in additional cases eligible for SPD representation. The number of additional cases is unknown and as a result the fiscal impact is unknown. However, if the offenses, which are classified as misdemeanors, were class D misdemeanors, jail time would not be a possible sentence and the offense therefore would not be eligible for SPD representation.

Oversight notes in FY22 the SPD was appropriated moneys for 53 additional FTE. Oversight assumes this proposal will create a minimal number of new cases and that the SPD can absorb the additional caseload required by this proposal with current staff and resources. Therefore, Oversight will reflect no fiscal impact to the SPD for fiscal note purposes. However, if multiple bills pass which require additional staffing and duties, the SPD may request funding through the appropriation process.

In response to similar legislation from 2023 (HB 179), officials from the **Office of the State Courts Administrator** assumed the proposal will have no 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 OSCA.

Bill as a Whole

In response to the previous version of this proposal, officials from the **Branson Police Department** stated the bill, as currently written, will severely impact law enforcement operations for special events such as parades and other law enforcement operations in which situational awareness is important to the overall safety and response during events. For example, their municipality has two very large parades every year, in which they deploy drones for everything from traffic flow to management of entry separation along the route to looking for suspicious situations, such as unattended items that could be IED's, etc. There are hundreds of private property owners along the parade route so requiring individual permissions would make it nearly impossible to reap the benefits of improved community safety by deploying drones for these events.

Existing state and federal case law rulings already prohibit the abilities of law enforcement agencies from collecting evidence without a warrant by flying over private property. Therefore,

the only result of the changes in this bill will be to decrease law enforcement's ability to provide the highest level of protections and safety for the public during events that have no criminal nexus prior to an emergency occurring.

In response to the previous version of this proposal, officials from the **University of Central Missouri** stated an indeterminate fiscal impact. However, Oversight notes they provided no information explaining the potential fiscal impact this proposal would have on their organization. Therefore, for fiscal note purposes, Oversight assumes any fiscal impact incurred by this university would be absorbable within current funding levels.

In response to the previous version of this proposal, officials from the **Attorney General's Office**, the **Department of Commerce and Insurance**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Higher Education and Workforce Development**, the **Department of Natural Resources**, the **Department of Public Safety – (Capitol Police, Fire Safety, Office of the Director, Missouri Veterans Commission, State Emergency Management Agency)**, the **Missouri Department of Agriculture**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Missouri National Guard**, the **Missouri Office of Prosecution Services**, the **Office of Administration - Administrative Hearing Commission**, the **State Tax Commission**, the **City of Kansas City**, the **City of Springfield**, the **Kansas City Police Department**, the **St. Louis County Police Department**, the **Phelps County Sheriff's Office**, the **Metropolitan St. Louis Sewer District – 7B**, the **Morgan County Pwsd #2**, the **South River Drainage District**, the **St. Charles County Pwsd #2 – 7A**, the **Wayne County Pwsd #2**, the **Hancock Street Light District**, the **St. Charles Community College**, and **Missouri State University** assumed the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **St. Joseph Police Department** assumed the proposal will have no 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 organizations.

In response to the previous version of this proposal, officials from the **Andrew County Pwsd #2** and the **Lexington Water/Wastewater** indicated this proposal would have a fiscal impact on their organization. However, **Oversight** notes they provided no information explaining the potential fiscal impact this proposal would have on their organization. Therefore, for fiscal note purposes, Oversight assumes any fiscal impact incurred by these utilities would be absorbable within current funding levels.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, local law enforcement agencies, fire protection districts, colleges and universities, utilities and cooperatives were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Cost</u> – MHP and other state agencies (§§305.635, 305.637, 305.639, 305.641) Potential contributions to Legal Expense Fund to pay judgements from civil suits from litigants p. 3	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
OTHER STATE FUNDS			
<u>Cost</u> – (§§305.635, 305.637, 305.639, 305.641) Transfers to Legal Expense Fund to pay for successful civil suits from litigants p. 3	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – State Government</u> (continued)	FY 2024 (10 Mo.)	FY 2025	FY 2026
LEGAL EXPENSE FUND			
<u>Income</u> – (§§305.635, 305.637, 305.639, 305.641) Transfers in to cover costs of payouts from civil suits won by litigants p. 3	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> – All State Agencies (§§305.635, 305.637, 305.639, 305.641) Potential increase of payouts from civil suits won by litigants claiming violation of §§305.635 to 305.641 p. 3	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON THE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
COLLEGES AND UNIVERSITIES			
<u>Cost</u> - (§§305.635, 305.637, 305.639, 305.641) Increase in potential judgements p. 3	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
FEDERAL FUNDS			
<u>Cost</u> – (§§305.635, 305.637, 305.639, 305.641) Transfers to Legal Expense Fund to pay for successful civil suits from litigants p. 3	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost – LPS (§§305.635, 305.637, 305.639, 305.641) Potential increase of payouts from civil suits won by litigants claiming violation of §§305.635 to 305.641 p. 3</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

FISCAL IMPACT – Small Business

This proposal should not fiscally impact small businesses.

FISCAL DESCRIPTIONUNMANNED AIRCRAFT (Sections 305.635, 305.637, 305.639, 305.641)

This bill establishes the "Preserving Freedom from Unwarranted Surveillance Act" that prohibits any person, entity, or state agency or county or municipal law enforcement agency from using a drone or other unmanned aircraft to gather evidence or other information relating to criminal conduct or conduct in violation of a statute or regulation except to the extent authorized in a warrant. A law enforcement agency may use a drone or unmanned aircraft without obtaining a warrant in emergency situations if there is an imminent threat to life or of great bodily harm. A person, entity, or state agency cannot use a drone or unmanned aircraft to conduct surveillance or observation of an individual, property owned by an individual, farm, facility engaged in the creation of fuel from agricultural products, or agricultural industry without the consent of the individual, property owner, farm, facility, or agricultural industry except to the extent authorized in a warrant.

The bill does not prohibit the use of a manned aircraft, drone, or unmanned aircraft by a state law enforcement agency or any county or municipal law enforcement agency in the state to the extent authorized in a warrant; a Missouri-based higher education institution conducting specified educational, research, or training programs; a manufacturer or seller engaged in the research, development, or testing of a manned aircraft, drone, or unmanned aircraft and operating a manned aircraft, drone, or unmanned aircraft under specified situations; any real estate broker acting in connection with the marketing, sale, or financing of any real property; any branch of the United States Armed Forces or the National Guard; or any professional engaged in surveying, mapping, or engineering. The bill does not prohibit the use of a model aircraft.

Any aggrieved party may obtain relief in a civil action to prevent or remedy a violation of the Act. Information obtained or collected in violation of the Act cannot be admissible as evidence in a criminal proceeding or in an administrative hearing. Sovereign immunity for the state is waived for any civil action resulting from a violation of the provisions of the Act.

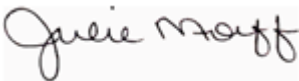
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

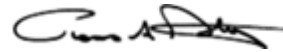
Attorney General's Office
Department of Commerce and Insurance
Department of Corrections
Department of Higher Education and Workforce Development
Department of Natural Resources
Department of Labor and Industrial Relations
Department of Public Safety
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Department of Transportation
Missouri National Guard
Missouri Office of Prosecution Services
Office of Administration
Office of the State Courts Administrator
Office of the State Public Defender
State Tax Commission
City of Claycomo
City of O'Fallon
City of Kansas City
City of Springfield
City of St. Louis
Branson Police Department
Kansas City Police Department
St. Joseph Police Department
St. Louis County Police Department
Phelps County Sheriff's Office
Fruitland Area Fire Protection District
University of Missouri
University of Central Missouri
Missouri Western State University
Missouri State University
SOURCES OF INFORMATION (continued)

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St. Charles Community College
Andrew County Pwsd #2
Lexington Water/Wastewater
Metropolitan St. Louis Sewer District – 7B
Morgan County Pwsd #2
South River Drainage District
St. Charles County Pwsd #2 – 7A
Wayne County Pwsd #2
Hancock Street Light District



Julie Morff
Director
March 30, 2023



Ross Strope
Assistant Director
March 30, 2023