

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1937S.04C
 Bill No.: SCS for HCS for HB Nos. 919 & 1081
 Subject: State Departments; Public Officers; Corporations; Law Enforcement Officers and Agencies; Crimes and Punishment; Motor Vehicles
 Type: Original
 Date: May 4, 2023

Bill Summary: This proposal modifies provisions relating to privacy protections.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	(Unknown, Could exceed \$33,653)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	(Unknown, Could exceed \$33,653)	\$0 to (Unknown)	\$0 to (Unknown)

*Oversight is unclear on how many claims could occur against a state employee for violating this proposal (476.1308). Oversight assumes the cost would not reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Various State Funds	Less than \$250,000	Less than \$250,000	Less than \$250,000
Legal Expense Fund**	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other State Funds</u>	Less than \$250,000	Less than \$250,000	Less than \$250,000

**Indicates numbers that net to zero.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

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	Less than \$250,000	Less than \$250,000	Less than \$250,000

FISCAL ANALYSIS

ASSUMPTION

§105.1500 – Personal Privacy Protection Act

In response to a similar proposal from this year (HB 1064), officials from the **Office of Administration (OA)** assumed the proposed legislation would have a positive impact on OA Division of Purchasing as it would allow for the public to once again access needed procurement records on the Awarded Bid and Contract Document Search Website and MissouriBUYS Contract Board rather than having to submit an open records request to OA Purchasing in order to gain access to do so. This would reduce the number of open record requests received and reduce the number of hours needed by OA Purchasing to review bid and contract files for any personal information of a 501(c) entity in the requested records and in bid files prior to award and in prior bid and contract files prior to the new solicitation's issuance and to redact such before providing the bid and contract documents to the public in order to maintain compliance with the provisions of section 105.1500, RSMo.

While there would not be a direct monetary savings to OA Purchasing, the proposed legislation would avoid Purchasing having to divert resources to completing the records reviews and redactions.

In response to similar legislation, HB 667 from 2023, officials from the **City of Kansas City**, **City of O'Fallon**, and the **City of Springfield** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation, HB 667 from 2023, officials from the **Jackson County Board of Elections**, **Platte County Board of Elections**, and the **St. Louis County Board of Elections** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation, HB 667 from 2023, officials from the **University of Central Missouri** assumed the proposal will have an indeterminate fiscal impact on their organization.

In response to similar legislation, HB 667 from 2023, officials from the **St. Charles Community College** assumed the proposal will have no fiscal impact on their organization.

Oversight notes that the Personal Privacy Protection Act was passed on HB 2400 in 2022. This legislation is making amendments to include exemptions from the Act. The above mentioned agencies 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 on the fiscal note for this section of the proposal.

§105.1675 – Anti-Surveillance and Foreign Intervention Act

In response to a previous version of HB 919, officials from the **Department of Commerce and Insurance, Department of Health and Senior Services, the Department of Corrections, the Department of Labor and Industrial Relations, the Office of Administration the Attorney General’s Office, the Department of Economic Development the Department of Natural Resources, the Department of Public Safety (Capitol Police, Alcohol & Tobacco Control, Gaming Commission, Missouri Highway Patrol, Missouri National Guard), the Office of the Governor, the Missouri Ethics Commission, the Office of the State Courts Administrator, the Office of the State Auditor the Office of the State Public Defender, the Office of the State Treasurer** each assumed the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the above mentioned agencies have stated the 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 on the fiscal note for this section.

§§476.1300 - 476.1313 - Judicial Privacy Act

Officials from the **Department of Revenue (DOR)** assume the following:

§476.1302.1

DOR assumes this subsection requires the Department to not publicly post or display publicly available content that includes a judicial officer’s personal information provided the government agency has received a written request that the agency refrain from disclosing the judicial officer’s personal information.

§476.1310.1

DOR assumes this subsection deems that no government agency, person, business, or association shall be found to have violated any provision of sections 476.1300 to 476.1312 if the judicial officer fails to submit a written request calling for the protection of the judicial officer’s personal information.

§476.1302.2

A written request shall be valid if:

- (1.) The judicial officer sends a written request directly to a government agency, person, business, or association; or
- (2.) If the judicial officer complies with a Missouri Supreme Court rule for a state judicial officer to file the written request with the clerk of the Missouri Supreme Court or the clerk’s designee to notify government agencies and such notice is properly delivered by mail or electronic format.

§476.1302.3

DOR assumes this subsection the clerk of the Missouri Supreme Court or the clerk’s designee to

provide a list of all state judicial officers who have submitted a written request under this section to the appropriate officer with ultimate supervisory authority for a government agency. The office shall promptly provide a copy of the list to all government agencies under his or her supervision. Receipt of the written request list compiled by the clerk of the Missouri Supreme Court or the clerk's designee by a government agency shall constitute a written request to that agency for the purposes of sections 476.1300 to 476-1312.

§476.1302.5

DOR assumes this subsection deems a judicial officer's written request shall specify what personal information shall be maintained as private. If a judicial officer wishes to identify a secondary residence as a home address, the designation shall be made in the written request. A judicial officer shall disclose the identity of his or her immediate family and indicate that the personal information of those members of the immediate family shall also be excluded to the extent that it could reasonably be expected to reveal the personal information of the judicial officer.

§476.1302.6

DOR assumes this subsection deems a judicial officer's written request is valid until the judicial officer provides the government agency, person, business, or association with written permission to release the personal information. A judicial officer's written request expires on such judicial officer's death.

Administrative Impact

To implement the proposed change, the Department would be required to:

- Project development and oversight tasks;
- Coordinate with the Missouri Supreme Court to develop requirements for the data file specifications for electronic transfer of data;
- OA-ITSD to develop a secure process that is a format compatible with the Missouri Supreme Court system for the court to send the request with personal information attached;
- Complete programming and user acceptance testing of MODL to verify file transfer from Missouri Supreme Court and update confidential record indicators as required to restrict release of information;
- OA-ITSD Test the file generation and secure transfer process to ensure all required data elements are received as required;
- Obtain format and procedure approvals from Missouri Supreme Court as applicable;
- Test file transfer process, record updates, record sales and law enforcement inquiries to ensure accurate handling of these newly restricted record types;
- Update policies and procedures;
- Update forms, manuals, and the Department website;
- Complete training as required.

FY2024-Driver License Bureau

Research/Data Analyst 80 hrs. @ \$25.63 =\$2,050

Administrative Manager 60 hrs. @ \$27.82 = \$1,669
Total \$3,719

FY 2024-Public Service Bureau
Associate Research/Data Analyst 20 hrs. @ \$17.20 = \$344

Total \$4,063

MVB:
Chapters in 476

- This bill creates the “Judicial Privacy Act,” which functions as a way for judges to request that their personal information not be posted or released. Judicial officers have to make a written request either directly to each agency, person, business, or association; or file through a clerk of the Supreme Court, asking them to refrain from disclosing the judicial officer’s personal information. The bill also requires that no one uses a judicial officer’s personal information in any way for the purposes of tampering with a judicial officer; being guilty of which would result in a class D felony.

Administrative Impact

To implement the proposed legislation the department will be required to:

- Update procedures, correspondence letters and the Department website;
- Update the Missouri Titling Manual and Forms;
- Send Communications to License offices and other Contracted stakeholders; and
- Train Staff

FY 2023 – Motor Vehicle Bureau
Associate Research/Data Analyst 40 hrs. @ \$19.90/hr. = \$796.00
Lead Administrative Support Asst. 20 Hrs @ \$17.05 = \$341.00
Administrative Manager 5 Hrs @ \$26.96 = \$134.80

FY 2024 – Strategy and Communications Office
Associate Research/Data Analyst 20 hrs. @ \$19.90/hr. = \$ 398

Total Cost = \$1,669.80

The Department anticipates being able to absorb these costs and that there will be Minimal Impact. If multiple bills are passed that require Department resources, FTE may be requested through the appropriations process.

Based on the assumption that the eligible record holders will be updated through a secure file process and not by processing of individual applications, the department does not expect to require additional FTE. The volume of potential individual requests for removal is unknown. If the volume of request increases beyond current staffing abilities, the department will be required

to request appropriations for FTEs.

The fiscal impact estimate in this response is based on changes in the current MO Driver License System environment. The Department is pursuing an upgraded Motor Vehicle and Driver Licensing system and to reduce duplicative development and reduce cost the sponsor may want to consider an delayed effective date that would allow the proposed changes be developed within the new proposed environment.

Oversight notes DOR anticipates having a one-time IT cost of \$33,653 for 354.24 hours of work at \$95 per hour in FY 2024.

Oversight is unclear on the timeframe for updating DOR's Motor Vehicle and Driver Licensing software system and will, therefore, reflect costs estimates as provided by DOR as if the changes were implemented starting in FY24.

Officials from the **Office of Administration (OA)** state this proposal provides restrictions on the use of a judicial officer's personal information and establishes civil remedies for violation, including costs and attorney fees. These provisions have the potential to increase costs to the Legal Expense Fund (LEF) if a claim were successfully brought against a state employee for violation of this legislation.

Oversight does not have information to the contrary and therefore, Oversight will reflect a \$0 to unknown cost to General Revenue (as reimbursement to the Legal Expense Fund) and the LEF as provided by the OA.

§565.260 – Unlawful Tracking of a Motor Vehicle

In response to a similar proposal from this year (HB 1081), officials from the **Office of the State Public Defender (SPD)** stated the proposed legislation creates new offenses under sections 542.402 and 565.260 which 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 a similar proposal from this year (HB 1081), officials from the from the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police**

Department, the Phelps County Sheriff's Department, the Fruitland Area Fire Protection District, and the Cole Camp Ambulance District assumed the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal from this year (HB 1081), officials from the **Branson Police Department** stated as for the vehicle tracking changes, there are no anticipated negative impacts and are in line with applicable case law.

Oversight also notes a violation of the provisions of section 565.260 is a class A misdemeanor which carries a fine not to exceed \$2,000 in addition to any individual county/municipal fees and court costs. The fine revenue for the ticket goes to local school funds and court costs go to various state and local funds. Oversight assumes there will be some (less than \$250,000) fine revenue from violations of the statute. Therefore, the impact to various state funds and local governments will be presented as less than \$250,000. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Below are examples of some of the state and local funds which court costs are distributed:

Fee/Fund Name	Fee Amount
Basic Civil Legal Services Fund	\$8.00
Clerk Fee	\$15.00 (\$12 State/\$3 County)
County Fee	\$25.00
State Court Automation Fund	\$7.00
Crime Victims' Compensation Fund	\$7.50
DNA Profiling Analysis Fund	\$15.00
Peace Officer Standards and Training (POST) Fund	\$1.00
Motorcycle Safety Trust Fund	\$1.00
Brain Injury Fund	\$2.00
Independent Living Center Fund	\$1.00
Sheriff's Fee	\$10.00 (County)
Prosecuting Attorney and Circuit Attorney Training Fund	\$4.00
Prosecuting Attorney Training Fund	\$1.00 (\$0.50 State/\$0.50 County)
Spinal Cord Injury Fund	\$2.00

Oversight only reflects the responses received from state agencies and political subdivisions; however, other ambulance/EMS, fire protection districts, and local law enforcement 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.

Bill as a whole:

Officials from the **Attorney General's Office**, the **Office of Administration - Budget and Planning**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Public Safety (Alcohol and Tobacco Control, Fire Safety, Gaming Commission, Highway Patrol, Veterans Commission, State Emergency Management Agency)**, the **Missouri Ethics Commission**, the **Missouri National Guard**, the **Office of the State Auditor**, the **Joint Committee on Administrative Rules**, the **Oversight Division**, the **Missouri Senate**, the **Missouri Lottery Commission**, the **Missouri Consolidated Health Care Plan** and the **State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Office of Administration - Administrative Hearing Commission**, the **Department of Commerce and Insurance**, the **Department of Health and Senior Services**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Public Safety – Capitol Police**, Directors Office, the **Office of the Governor**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **MoDOT & Patrol Employees' Retirement System**, the **Office of the Lieutenant Governor**, the **Missouri House of Representatives**, the **Legislative Research**, the **Office of the State Courts Administrator**, and the **Missouri Office of Prosecution Services** 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.

Officials from the **Department of Social Services** and the **Missouri Department of Agriculture** defer to the Office of Administration for the potential fiscal impact of this proposal.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Cost – DOR</u> One-time IT cost §§476.1300-476.1313 p. 4-7	(\$33,653)	\$0	\$0
<u>Cost – OA</u> Potential payout of claims to LEF against a state employee for violating the Judicial Privacy Act §§476.1300-476.1313 p. 4-7	(\$0 to Unknown)	(\$0 to Unknown)	(\$0 to Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(Unknown, Could exceed \$33,653)</u>	<u>(\$0 to Unknown)</u>	<u>(\$0 to Unknown)</u>
LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> – increase in appropriations to cover additional payouts §§476.1300-476.1313 p. 4-7	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost – OA</u> – potential payout claims against a state employee for violating this proposal §§476.1300-476.1313 p. 4-7	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
VARIOUS STATE FUNDS			
<u>Revenue</u> – (\$565.260) Court costs paid in p. 7-8	<u>Less than \$250,000</u>	<u>Less than \$250,000</u>	<u>Less than \$250,000</u>
ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS	<u>Less than \$250,000</u>	<u>Less than \$250,000</u>	<u>Less than \$250,000</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> – (\$565.260) Court costs p. 7-8	Less than \$250,000	Less than \$250,000	Less than \$250,000
<u>Revenue</u> - (\$565.260) Fine revenue p. 7-8	<u>Less than</u> <u>\$250,000</u>	<u>Less than</u> <u>\$250,000</u>	<u>Less than</u> <u>\$250,000</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Less than</u> <u>\$250,000</u>	<u>Less than</u> <u>\$250,000</u>	<u>Less than</u> <u>\$250,000</u>

FISCAL IMPACT – Small Business

Small businesses which do not follow the provisions of the proposal could be fiscally affected and could be charged criminally.

FISCAL DESCRIPTION

This proposal modifies provisions relating to privacy protections.

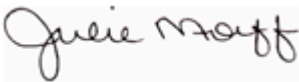
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

- Attorney General’s Office
- Department of Commerce and Insurance
- Department of Economic Development
- Department of Elementary and Secondary Education
- Department of Higher Education and Workforce Development
- Department of Health and Senior Services
- Department of Mental Health
- Department of Natural Resources
- Department of Corrections
- Department of Labor and Industrial Relations
- Department of Revenue
- Department of Public
- Department of Social Services

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Office of the Governor
Joint Committee on Public Employee Retirement
Joint Committee on Administrative Rules
Missouri Lottery Commission
Legislative Research
Oversight Division
Local Government Employees Retirement System
Missouri Consolidated Health Care Plan
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri House of Representatives
Office of the Lieutenant Governor
Missouri Department of Transportation
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Missouri Office of Prosecution Services
Office of Administration
Facilities Management, Design and Construction
Office of the State Courts Administrator
Office of the State Auditor
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
Office of the State Treasurer
Public Schools and Education Employee Retirement Systems
State Tax Commission



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May 4, 2023



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