

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3688H.011
 Bill No.: HB 1609
 Subject: Law Enforcement Officers and Agencies; Criminal Procedure
 Type: Original
 Date: January 17, 2024

Bill Summary: This proposal establishes the "Preserving Freedom From Unwarranted Surveillance Act" and modifies provisions relating to the use of unmanned aircraft.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 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 2025	FY 2026	FY 2027
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 State Funds</u>	\$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 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§§305.635, 305.637, 305.639, 305.641, 542.525 and 577.800 – Unmanned aircraft

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state the waiver of sovereign immunity for MHP personnel in §305.641 of this proposal could result in significant financial exposure. Due to the varied nature of unmanned aircraft operations and unknown number of civil litigations resulting from this legislation, the fiscal impact to the Patrol would be unknown. General Revenue, the Highway Fund (0644) and the Water Patrol Fund (0400) represent the main funding sources for the MHP's enforcement personnel and would be the most affected.

Officials from the **Office of Administration (OA), General Services Division** assume §§305.635 to 305.641 prohibits drones from being used to "conduct surveillance or observation" of any individual without a warrant. 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.

Bill as a Whole

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation or investigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from **Office of Administration - Administrative Hearing Commission**, the **Department of Commerce and Insurance**, the **Department of Higher Education and Workforce Development**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Public Safety**, **Divisions of: Alcohol and Tobacco Control, Capitol Police, Fire Safety, Director's Office, Missouri Veterans Commission**, and the **State Emergency Management Agency**, the **Department of Social Services**, the **Missouri Department of Agriculture**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Missouri National Guard**, the **Office of State Public Defender**, the **University of Missouri System**, the **City of Kansas City**, the **Phelps County Sheriff's Office**, the **Kansas City Police Department**, the **St. Louis County Police Department**, the **Little Blue Valley Sewer District**, the **Metropolitan St. Louis Sewer District**, the **South River Drainage District**, the **St. Charles County Pwsd #2**, the **Wayne County Pwsd #2**, **Northwest Missouri State University**, the **University of Central Missouri**, the **State Tax Commission**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator** and the **Hancock Street Light District** 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 no fiscal impact for these organizations.

Oversight notes officials from the **Morgan County Pwsd #2** responded to our request for a statement of fiscal impact but did not provide any information in their response.

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 2025 (10 Mo.)	FY 2026	FY 2027
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 p. 3	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
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 p. 3	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
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 provisions 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	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (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	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> – LPS (§§305.635, 305.637, 305.639, 305.641) Potential increase of payouts from civil suits won by litigants claiming violation of provisions p. 3	<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 DESCRIPTION

This bill establishes the "Preserving Freedom from Unwarranted Surveillance Act".

The bill provides that no state agency or county or municipal law enforcement agency may use a drone or other unmanned aircraft, as defined in the bill, to gather evidence or other information pertaining to criminal conduct, except to the extent authorized in a warrant. A law enforcement agency may use a drone or unmanned aircraft in response to state, national, or local emergency situations, as described in the bill.

No person, entity, or state agency may use a drone or other unmanned aircraft to conduct surveillance or observation of any individual or property, as described in the bill, without the consent of that individual or property owner. A person, entity, or state agency shall only launch or operate a drone or other unmanned aircraft within the operating limitations provided in 14 CFR 107.51. No person, entity, or state agency shall launch or operate a drone or other unmanned aircraft within the property line of private property without the consent of the property owner or occupant.

Any aggrieved party may in a civil action obtain all appropriate relief to prevent or remedy a violation of the provisions of this bill.

No information obtained in violation of the provisions of this bill shall be admissible as evidence in a criminal proceeding.

Sovereign immunity for the state is waived for any civil action resulting from a violation of the provisions of this bill.

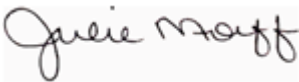
This bill repeals the ability for the highest ranking law enforcement chief or officer to approve the placement of a camera on private property. (§§305.635, 305.637, 305.639, 305.641)

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

Office of Administration
Attorney General's Office
Department of Commerce and Insurance
Department of Higher Education and Workforce Development
Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Public

Department of Social Services
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Department of Transportation
Missouri National Guard
Office of the State Public Defender
University of Missouri System
City of Kansas City
Phelps County Sheriff's Office
Kansas City Police Department
St. Louis County Police Department
Little Blue Valley Sewer District
Metropolitan St. Louis Sewer District
Morgan County Pwsd #2
South River Drainage District
St. Charles County Pwsd #2
Wayne County Pwsd #2
Northwest Missouri State University
University of Central Missouri
Missouri Office of Prosecution Services
Office of the State Courts Administrator
State Tax Commission
Hancock Street Light District



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January 17, 2024



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