

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1605H.01I
Bill No.: HB 459
Subject: Courts; Firearms
Type: Original
Date: January 26, 2025

Bill Summary: This proposal establishes the "Anti-Red Flag Gun Seizure Act".

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 assumes the addition of a civil penalty of \$50,000 per occurrence for any violations of §1.486 could reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Other State Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
State Legal Expense Fund (0692)**	\$0	\$0	\$0
Colleges and Universities*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
State Highways and Transportation Department Fund (0644)*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Water Patrol Division Fund (0400)*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

**Indicates numbers that net to zero.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Federal Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes the loss of federal funds could reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Local Government*	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§1.486 – Anti-Red Flag Gun Seizure Act

Officials from the **Office of Administration (OA)** state this legislation creates provisions and damages relating to seizure of firearms and includes a waiver of sovereign immunity for actions brought under this section. This has the potential to increase costs to the LEF but would be subject to judicial construction; therefore, the cost is unknown.

Oversight does not have any information contrary to that provided by OA. Therefore, Oversight will reflect OA's potential unknown impact for fiscal note purposes to the State Legal Expense Fund. Oversight notes the Legal Expense Fund is funded by the General Revenue Fund as well as other state funds. Oversight notes this possible litigation exposure as described by OA could also apply to colleges and universities, federal funds, as well as local political subdivisions.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state section 1.486.7(1) creates a right to sue the law enforcement agency for a minimum of \$50,000 per occurrence along with punitive damages and attorney's fees. The Patrol has no way of computing the number of allegations it may have to defend. Due to this, the impact is listed as unknown to General Revenue, the State Highways and Transportation Department Fund (0644), the Water Patrol Division Fund (0400), and Federal Funds (0152). The three impacted state funds are the primary funding sources for enforcement personnel.

Additionally, section 1.486.2 and section 1.486.4 could have a fiscal impact as it might eliminate federal grant money that pays for the salaries of four (4) troopers and some overtime for troopers assigned to a federal task force or are assigned to work with a specified federal law enforcement agency.

Finally, section 1.486.7(5) appears to waive sovereign immunity, which could account for funding for the defense of future civil litigation.

Oversight does not have any information contrary to that provided by MHP. Therefore, Oversight will reflect MHP's impact as \$0 or an Unknown loss to the funds listed above. Oversight assumes the amounts of federal funding received by the state related to a red flag law would reach the \$250,000 threshold.

Officials from the **Office of Administration - Budget and Planning (B&P)** state Article IX, Section 7 of the Missouri Constitution requires that penalties, forfeitures, and fines collected for violations of state law be distributed to the schools. To the extent any additional such revenues are deposited into the state treasury, TSR may increase.

Oversight notes that violations of section 1.486.7(1) could result in fines or penalties. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fines vary widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Officials from the **Office of State Courts Administrator (OSCA)** state there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Oversight notes OSCA assumes this proposal may have some impact on their organization although it can't be quantified at this time. As OSCA is unable to provide additional information regarding the potential impact, Oversight assumes the proposed legislation will have a \$0 to (Unknown) cost to the General Revenue Fund. For fiscal note purposes, Oversight also assumes the impact will be under \$250,000 annually. If this assumption is incorrect, this would alter the fiscal impact as presented in this fiscal note. If additional information is received, Oversight will review it to determine if an updated fiscal note should be prepared and seek approval to publish a new fiscal note.

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

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 the **City of Kansas City** state this legislation has a negative fiscal impact of an indeterminate amount.

Officials from the **Missouri Department of Conservation**, the **Missouri Office of Prosecution Services**, the **Phelps County Sheriff's Department**, the **Kansas City Police Department**, and the **St. Louis County Police Department** each assume 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, 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.

This proposal has an emergency clause.

<u>FISCAL IMPACT – State Government</u>	FY 2026	FY 2027	FY 2028
GENERAL REVENUE			
<u>Cost</u> – MHP (§1.486) Potential loss of funding	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Cost</u> – OSCA (§1.486) Potential cost relating to “Anti-Red Flag Gun Seizure Act”	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Transfer Out</u> – to the State Legal Expense Fund (§1.486) Potential increase in litigation	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
OTHER STATE FUNDS			
<u>Cost Increase</u> - (§1.486) Potential increase in transfer to LEF	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
STATE LEGAL EXPENSE FUND (0692)			
<u>Transfer In</u> – (§1.486) From General Revenue	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost Increase</u> - (§1.486) Potential increase in litigation	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON THE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – State Government</u>	FY 2026	FY 2027	FY 2028
COLLEGES AND UNIVERSITIES			
<u>Cost Increase - (\$1.486) Potential increase in litigation</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
STATE HIGHWAYS AND TRANSPORTATION DEPARTMENT FUND (0644)			
<u>Cost – MHP (\$1.486) Potential loss of funding</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON THE STATE HIGHWAYS AND TRANSPORTATION FUND	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
WATER PATROL DIVISION FUND (0400)			
<u>Cost – MHP (\$1.486) Potential loss of funding</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON THE WATER PATROL DIVISION FUND	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT – State Government</u>	FY 2026	FY 2027	FY 2028
FEDERAL FUNDS			
<u>Cost Increase</u> - (§1.486) Potential increase in litigation	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Cost – MHP</u> (§1.486) Potential loss of funding	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026	FY 2027	FY 2028
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> – School districts (§1.486) Fines from violations	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> - (§1.486) Potential increase in litigation and/or civil penalty costs	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or Unknown to (Unknown)</u>	<u>\$0 or Unknown to (Unknown)</u>	<u>\$0 or Unknown to (Unknown)</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

ANTI-RED FLAG GUN SEIZURE ACT (Section 1.486)

This bill establishes the "Anti-Red Flag Gun Seizure Act".

For purposes of the bill, "red flag law" is defined as any gun control law, order, or measure that directs the seizure of any firearm of an individual without the adjudication of a contested court case; or any Federal or State rule, statute, or judicial order that prohibits a Missouri citizen from owning or receiving any firearm; or any order of removal for the surrender of any firearm, unless such citizen is convicted of a violent felony or is otherwise disqualified pursuant to an order of protection or under Section 571.070, RSMo.

Any red flag law that directs the confiscation of any firearm from any law-abiding citizen within Missouri must be considered an infringement on the people's right to keep and bear arms as guaranteed by the State and Federal constitutions and will not be enforced within Missouri.

No State agency, political subdivision, or State or local law enforcement agency may receive any Federal funds for the purpose of enforcing any Federal law, order, or judicial finding for the purpose of enforcing any State statute, rule, order, or judicial finding that would have the effect of enforcing a red flag law against a Missouri citizen.

No entity or person, including a State entity or employee thereof, or political subdivision or employee thereof, will have the authority to enforce or attempt to enforce a red flag law regardless of the red flag law's origin or the authority of the issuing entity, except that this prohibition must not apply to any agent of the Federal government enforcing a Federal law or Federal order.

A political subdivision or State or local law enforcement agency that employs a law enforcement officer that knowingly violates the provisions of this bill must be liable to the party against whom a red flag law was enforced and additionally will be subject to a civil penalty of \$50,000 per occurrence. The Attorney General will also have standing to bring an action to enforce the provisions of this section.

In any action brought under the provisions of this bill, a court may order injunctive or other equitable relief, recovery of damages, other legal remedies, and payment of reasonable attorney's fees, costs, and expenses of the party. Such relief must not be exclusive and additional relief or remedies may be awarded as otherwise permitted by law.

This bill contains an emergency clause.

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 Highway Patrol
Missouri Department of Conservation
Office of Administration

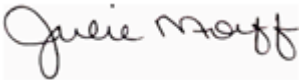
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Missouri Office of Prosecution Services
Office of the State Courts Administrator
City of Kansas City
Phelps County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department

A handwritten signature in black ink that reads "Julie Morff". The signature is written in a cursive, flowing style.

Julie Morff
Director
January 26, 2025

A handwritten signature in black ink that reads "Jessica Harris". The signature is written in a cursive, flowing style.

Jessica Harris
Assistant Director
January 26, 2025