

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1478-01
Bill No.: HB 706
Subject: Crimes and Punishment
Type: Original
Date: February 9, 2017

Bill Summary: This proposal creates the offense of nonconsensual dissemination of private sexual images.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$24,521)	(\$60,027)	(\$90,639)
Total Estimated Net Effect on General Revenue	(\$24,521)	(\$60,027)	(\$90,639)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on FTE	0	0	0

9 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 2018	FY 2019	FY 2020
Local Government	\$0	\$0	\$0

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FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol**, the **Office of the State Courts Administrator**, and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of non consensual dissemination of private sexual images, a new class D felony.

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 assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Corrections (DOC)** state this bill describes a number of new definitions as added to Chapter 573.00 of RSMo and would create a new crime of “nonconsensual dissemination of private sexual images”. Such statutes are often known as “revenge porn” statutes because they target images and videos distributed without the consent of one or more people in the images/videos. These are often distributed by divorced/estranged persons for the purposes of revenge. This proposed change would create a Class D Felony which is more expansive than what is included under the current statute. This bill is very similar to a previously proposed bill in FY16 (HB 2700 5970-01) and proposes the same penalty for “revenge porn” which is defined similarly to what is contained in this bill.

HB 706 would create a new D Felony which would be supervised by the DOC. This is a new crime and no existing information exists for revenge porn. It is assumed that this crime of obscenity would be considered a non-violent offense.

If this impact statement has changed from statements submitted in previous years, it is because the department’s Budget and Research Section reviewed the way responses had been submitted and has developed a more precise way to calculate the impact. In previous year’s responses, the full impact of recidivism for parole releases was not adequately calculated. Now we have been able to quantify the fact that some parolees are returned to prison after release and that has been added into the calculation of the impact. The total number of offenders has not changed but there

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ASSUMPTION (continued)

is an assumption that they will spend more time back in prison rather than being on community supervision, which will increase the amount of the impacts.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

Therefore, the impact to DOC in FY 2018 would be 3 people in prison and 5 under supervision. DOC assumes a fully implemented impact of 8.7 persons in prison and 20.7 persons under supervision in year 5 (FY 2022) from this proposal.

	# to prison	Cost per year	Total Costs for prison	# to probation	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	3.0	(\$6,085)	(\$18,255)	5.0	(\$2,234)	(\$11,170)	(\$24,521)
Year 2	6.0	(\$6,085)	(\$36,510)	10.0	(\$2,234)	(\$22,340)	(\$60,027)
Year 3	8.7	(\$6,085)	(\$52,940)	15.3	(\$2,234)	(\$34,180)	(\$90,639)
Year 4	8.7	(\$6,085)	(\$52,940)	18.3	(\$2,234)	(\$40,882)	(\$99,564)
Year 5	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$107,359)
Year 6	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$109,506)
Year 7	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$111,697)
Year 8	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$113,930)
Year 9	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$116,209)
Year 10	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$118,533)

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
<u>Costs - DOC - increase in incarceration and supervision (probation and parole)</u>	<u>(\$24,521)</u>	<u>(\$60,027)</u>	<u>(\$90,639)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$24,521)</u>	<u>(\$60,027)</u>	<u>(\$90,639)</u>

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<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill creates the offense of nonconsensual dissemination of private sexual images, which is a class D felony. A person commits such offense when he or she: intentionally disseminates an image of another person fitting criteria specified in the bill; obtains the image under

circumstances in which a reasonable person would know or understand that the image was to remain private; and knows or should have known that the person in the image has not consented to the dissemination. The bill specifies certain exceptions to the offense.

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

Department of Public Safety
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections
Office of the State Courts Administrator



Mickey Wilson, CPA
Director
February 9, 2017

Ross Strobe
Assistant Director
February 9, 2017

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