

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3831H.02C
 Bill No.: HCS for HB 1488
 Subject: Attorney General; Consumer Protection; Department of Economic Development;
 Internet and E-Mail; Telecommunications
 Type: Original
 Date: April 28, 2022

Bill Summary: This proposal changes the laws regarding telecommunication practices.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Merchandising Practices Revolving Fund (0631)*	\$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

*Oversight assumes this proposal could increase collections by the AGO from offenders, but assumes the amount of collections would not reach the \$250,000 threshold.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 2023	FY 2024	FY 2025
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§407.1095 - §407.1115 - Telemarketing

Officials from the **Attorney General's Office (AGO)** assumed that any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources.

Oversight inquired of the AGO regarding the number of cases resolved in the past and the amount collected in judgements. The money received for judgements goes to the Merchandising Practices Revolving Fund (0631). This is the information they provided:

Fiscal Year	# of cases	Judgements	# of cases with collections	Collections
2014	17	\$758,000	12	\$225,500
2015	5	\$739,000	3	\$593,416
2016	6	\$30,500	3	\$10,500
2017	11	\$526,433	4	\$275,433
2018	1	\$500,133	0	\$0
2019	3	\$85,000	1	\$8,500

Oversight notes the AGO has not provided the amounts for FY 2020 or FY 2021 yet.

Oversight notes that the AGO stated the proposal would not have a direct fiscal impact on their organization. Oversight assumes this proposal may increase the number of cases referred to the AGO and could result in an increase in fine collections under this chapter. Oversight will reflect a \$0 or Unknown (assumed to be less than \$250,000) positive fiscal impact to the Merchandising Practices Revolving Fund.

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

In response to a previous version, officials from the **Department of Corrections (DOC)** stated the bill changes the laws regarding telecommunication practices. The bill intends to repeal sections 407.1095, 407.1098, 407.1101, and 407.1104, RSMo, and to enact in lieu thereof seven new sections relating to telecommunication practices, with penalty provisions. Section 407.1115 creates the offense of unlawful caller identification spoofing as a class E felony.

Since this is a new offense, the department will use a standard class E felony response. For each new nonviolent class E felony, the department estimates one person will be sentenced to prison

and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the Department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2025.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

* If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$22.616 per day or an annual cost of \$8,255 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$88.12 per day or an annual cost of \$32,162 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	1	(\$8,255)	(\$6,879)	2	absorbed	\$0	(\$6,879)
Year 2	2	(\$8,255)	(\$16,840)	4	absorbed	\$0	(\$16,840)
Year 3	2	(\$8,255)	(\$17,177)	7	absorbed	\$0	(\$17,177)
Year 4	2	(\$8,255)	(\$17,521)	7	absorbed	\$0	(\$17,521)
Year 5	2	(\$8,255)	(\$17,871)	7	absorbed	\$0	(\$17,871)

Oversight assumes the DOC will be able to absorb the cost of two additional prisoners, and will not reflect a fiscal impact to DOC from this proposal.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** notes 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 2023 (10 Mo.)	FY 2024	FY 2025
MERCHANDISING PRACTICES REVOLVING (0631)			
<u>AGO</u> – Potential increase in judgement collections for expansion of Telemarketing No-Call statutes §§407.1095 – 407.1115 p. 3	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>
ESTIMATED NET EFFECT TO THE MERCHANDISING PRACTICES REVOLVING (0631)	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
	<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

CALL SPOOFING (Sections 407.1095 - 407.1115, RSMo)

This bill adds call spoofing, as defined in the bill, as a method of telephone solicitation prohibited under provisions of law relating to the telemarketing no-call list and modifies that law so that it applies to business subscribers as well as residential subscribers.

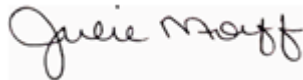
The bill also establishes the "Caller ID Anti-Spoofing Act", which creates the offense of unlawful caller identification spoofing. A person commits such offense if he or she enters or causes to be entered, false information into a caller ID service with the intent to deceive, defraud, or mislead the recipient of the call, or the person places a call knowing that false information was entered into a caller ID service with the intent to deceive, defraud, or mislead the recipient of the call. The offense is a class E felony.

Call recipients may bring action as members of a class, and the Attorney General may initiate legal proceedings or intervene in legal proceedings on behalf of call recipients.

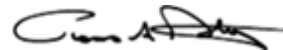
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Economic Development
Department of Public Safety – Missouri Highway Patrol
Office of the State Courts Administrator
Missouri Office of Prosecution Services
Office of the State Public Defender



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April 28, 2022



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April 28, 2022