

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3313-01  
Bill No.: HB 819  
Subject: Crimes and Punishment; Criminal Procedure  
Type: Original  
Date: January 29, 2004

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**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>                   |                                     |                                     |                                     |
|---|-------------------------------------|-------------------------------------|-------------------------------------|
| FUND AFFECTED   | FY 2005                             | FY 2006                             | FY 2007                             |
| General Revenue   | (Could exceed<br>\$100,000)         | (Could exceed<br>\$100,000)         | (Could exceed<br>\$100,000)         |
|   |                                     |                                     |                                     |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue<br/>Fund</b> | <b>(Could exceed<br/>\$100,000)</b> | <b>(Could exceed<br/>\$100,000)</b> | <b>(Could exceed<br/>\$100,000)</b> |

| <b>ESTIMATED NET EFFECT ON STATE FUNDS</b>                          |                                  |            |            |
|---|----------------------------------|------------|------------|
| FUND AFFECTED   | FY 2005                          | FY 2006    | FY 2007    |
| Highway Funds   | (\$34,050 to<br>Unknown)         | \$0        | \$0        |
|   |                                  |            |            |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>State Funds</b> | <b>(\$34,050 to<br/>Unknown)</b> | <b>\$0</b> | <b>\$0</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS                                 |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2005    | FY 2006    | FY 2007    |
|   |            |            |            |
|   |            |            |            |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>Federal Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

| ESTIMATED NET EFFECT ON LOCAL FUNDS |            |            |            |
|-------------------------------------|------------|------------|------------|
| FUND AFFECTED                       | FY 2005    | FY 2006    | FY 2007    |
| <b>Local Government</b>             | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Insurance** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of the Attorney General (AGO)** assume the costs of the proposed legislation could be absorbed within existing resources. AGO assumes they will continue to have access to records closed by Section 610.160 RSMo.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would provide for the partial sealing of some alcohol-related and other traffic conviction/plea records after an application to the court. Thereafter, information is denied to employers and insurers.

While CTS does not have information on the number of offenses that could apply, there is the potential for a significant workload impact on the courts. Any significant impact would be reflected in future budget requests.

**Oversight** assumes the additional cost to the courts could exceed \$100,000 per year.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assume this proposal would allow an individual to petition a court asking for the court to seal a misdemeanor traffic offense that is not related to driving while intoxicated. The Driver and Vehicle Services Bureau would be required to edit such orders and seal convictions per the court's order. Access to the conviction would be denied to any employer one year after the conviction and to insurers two years after the conviction.

The DOR assumes the proposal will require the Driver and Vehicle Services Bureau (DVSB) to process additional court orders ordering the DVSB to seal certain convictions on individual's driving records. The DVSB is not able to determine the number of court orders that will be received pursuant to this proposal. Additionally, it is unknown how many employers or prospective employers request driving records. Since this legislation restricts information that is supplied to insurance companies, employers, and prospective employers, DVSB must create a separate process to "mask" conviction data to these groups as required by this legislation. The impact to the DVSB is unknown.

The DVSB will require to test new computer program modifications that are necessary in order to "mask" conviction data pursuant to this legislation. The estimated cost of this testing is \$4,000.

The Information Technology Management Bureau would be required to design and modify several computer systems in order to comply with the requirements of this legislation. The estimated cost is \$14,000.

DOR estimates the total cost to the Highway Fund to be \$18,000 to Unknown in FY 05.

DOR further assumes this proposal conflicts the Motor Carrier Safety Improvement Act of 1999. The conflict jeopardizes Missouri's compliance with this act and such noncompliance may result in the loss of federal highway funding.

ASSUMPTION (continued)

Officials from the **Department of Transportation (MoDOT)** state the proposed legislation would not comply with this federal requirement because it allows the first traffic related offense to be sealed in violation of Section 31311(a)(18). If MoDOT is ruled out of compliance with the federal CDL program, 5 percent of the funds apportioned to the state under Sections 104(b)(1) (NHS funds), 104(b)(3) (STP funds), and 1014(b)(5) (interstate maintenance), of Title 23 of the United States Code, will be withheld. For the second and subsequent years of non-compliance, 10 percent of the above funds will be withheld. MoDOT estimates the potential fiscal impact to be a loss of federal funds of \$19.4 million in FY 06 and a loss of \$38.7 million in FY 07.

**Oversight** assumes these penalties are prospective and dependent on future events, and has excluded these costs from the estimate of fiscal impact.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume their Information Systems Division would be required to modify several procedures as a result of the proposed legislation. The MHP would outsource the processing procedures, which would include modifying records to seal, modifying records from sealed to unsealed, modifying the process to electronically receive indication from the courts, and modifying existing reporting processes and procedures to eliminate from reporting. The design, programming, testing, documentation, and formal knowledge transfer would require 150 consulting hours. The cost per hour is \$107. The MHP estimates the total impact to be \$16,050.

| <u>FISCAL IMPACT - State Government</u>                 | FY 2005<br>(10 Mo.)                 | FY 2006                             | FY 2007                             |
|---|-------------------------------------|-------------------------------------|-------------------------------------|
| <b>GENERAL REVENUE FUND</b>                             |                                     |                                     |                                     |
| <u>Costs</u> - State Courts Administrator               | (Could exceed<br>\$100,000)         | (Could exceed<br>\$100,000)         | (Could exceed<br>\$100,000)         |
| <b>ESTIMATED NET EFFECT ON<br/>GENERAL REVENUE FUND</b> | <u>(Could exceed<br/>\$100,000)</u> | <u>(Could exceed<br/>\$100,000)</u> | <u>(Could exceed<br/>\$100,000)</u> |

| <u>FISCAL IMPACT - State Government</u>          | FY 2005<br>(10 Mo.)                     | FY 2006           | FY 2007           |
|--|---|-------------------|-------------------|
| <b>HIGHWAY FUNDS</b>                             |   |                   |                   |
| <u>Costs - Department of Revenue</u>             |   |                   |                   |
| Computer programming/modifications               | (\$18,000 to<br>Unknown)                | \$0               | \$0               |
| <u>Costs – Missouri State Highway Patrol</u>     |   |                   |                   |
| Computer programming/modifications               | (\$16,050)                              | \$0               | \$0               |
| <b>ESTIMATED NET EFFECT ON<br/>HIGHWAY FUNDS</b> | <b><u>(\$34,050 to<br/>Unknown)</u></b> | <b><u>\$0</u></b> | <b><u>\$0</u></b> |
|  |   |                   |                   |
| <u>FISCAL IMPACT - Local Government</u>          | FY 2005<br>(10 Mo.)                     | FY 2006           | FY 2007           |
|  | <u>\$0</u>                              | <u>\$0</u>        | <u>\$0</u>        |

FISCAL IMPACT - Small Business

The proposed legislation could impact small business. Insurance companies will have increased liabilities because they will not have a complete driving record to review. Employers will also have increased liabilities without a complete driving history to determine safe drivers.

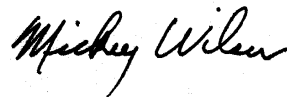
DESCRIPTION

The proposed legislation would allow a person convicted of a first traffic offense to petition the court to seal the record of the arrest and conviction. The person could not have been convicted of an alcohol-related offense or a second traffic offense. The person's record would be sealed to employers after one year from the date of conviction and to insurers after two years from the date of conviction. A person would be entitled to have his or her traffic record sealed only once.

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 Attorney General  
Office of State Courts Administrator  
Department of Transportation  
Department of Revenue  
Department of Public Safety  
    – Missouri State Highway Patrol  
Department of Insurance

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

Mickey Wilson, CPA  
Director  
January 29, 2004