

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4055-02
Bill No.: HCS for HBs 1243, 1094, and 931
Subject: Crimes and Punishment; Criminal Procedure; Law Enforcement Officers and Agencies
Type: Original
Date: April 5, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(Unknown) to Less than \$100,000	(Unknown) to Less than \$100,000	(Unknown) to Less than \$100,000
Total Estimated Net Effect on General Revenue Fund	(Unknown) to Less than \$100,000	(Unknown) to Less than \$100,000	(Unknown) to Less than \$100,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 21 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
DNA Profiling Analysis	(\$4,553 to Unknown)	(Unknown) to \$112,364	(Unknown) to \$61,218
Criminal Record System	\$0 to \$2,516,316	\$0 to \$2,516,316	\$0 to \$2,516,316
State School Moneys	\$0	\$0	\$0
Highway	(\$16,540)	(\$1,008)	(\$1,008)
Peace Officer Standards and Training Commission	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	(More than \$21,093) to \$2,516,316	(More than \$1,008) to \$2,628,680	(More than \$1,008) to \$2,577,534

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	(Less than \$2,516,316) to More than \$1,072,500	(Less than \$2,516,316) to More than \$1,287,000	(Less than \$2,516,316) to More than \$1,287,000

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Transportation, Department of Mental Health, Department of Natural Resources, Department of Public Safety – Capitol Police**, and the **– Missouri State Water Patrol** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of Prosecution Services** assume prosecutors could absorb the costs of the proposed legislation within existing resources.

Officials from the **Office of Secretary of State (SOS)** assume the Missouri State Highway Patrol may promulgate rules to implement the provisions of this act. These rules would be published in the Missouri Register and the Code of State Regulations. These rules could require as many as 18 pages in the Code of State Regulations and half again as many pages in the Missouri Register, as cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the Missouri Register is \$23 and the estimated cost of a page in the Code of State Regulations is \$27. Based on these costs, the estimated cost of the proposal is \$1,107 in FY 05 and unknown in subsequent years. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Fee Charged for Criminal History Check (\$43.530)

Officials from the **Department of Elementary and Secondary Education (DES)** assume the proposal would increase fees for receiving background checks and fingerprint search requests. Payments for background checks will increase from \$5 to \$10; and payments for fingerprint searches will increase from \$14 to \$20.

ASSUMPTION (continued)

DES states that during FY 2003, they requested background checks and fingerprint searches as follows:

	<u>FY 2003</u>	Fee increase		<u>FY 2005</u>	<u>FY 2006</u>
Background	54,977	x \$5	= \$274,885		
Fingerprint	<u>12,910</u>	x \$6	= <u>\$ 77,460</u>		
TOTAL	67,887		\$ 352,345	\$387,580	\$426,337

School districts would see an additional cost directly related to the number of requests made. In FY 2003, the additional costs would have been \$352,345 to school districts. The number of requests increased by 9.2% and 10.7% during FY 2002 and FY 2003 respectively, therefore, DES' calculation for subsequent years is inflated by 10%.

Officials from the **Department of Social Services – Division of Youth Services (DYS)** assume they request substitute teacher certification for youth specialist who fill in during teacher absences. Criminal history record information is sought for each applicant. Approximately 100 new requests are made each year. Thus, it is estimated that passage of this bill will result in DYS being assessed an additional \$500 per year for background checks. DYS states they are currently able to utilize Title IV funds (Safe and Drug Free Schools) to pay those fees. DYS assumes the fiscal impact is "immaterial."

Officials from the **Department of Social Services – Children's Division (CD)** assume this legislation would change the fee for name based criminal record checks from \$5 to \$10. Currently, the CD obtains name based criminal history checks on Foster Parents through the Family Safety Registry. Currently, the fee is waived for Foster Parents to sign up for the registry. Therefore, there is no fiscal impact to CD for raising the fee from \$5 to \$10.

In addition, this legislation raises the cost of a fingerprint criminal record check through the Highway Patrol from \$14 to \$20. The CD states they are requesting funding in the FY 2005 budget to perform fingerprint criminal record searches. This would raise the amount of funding needed to perform the fingerprint criminal record check. The CD states the current budget request is based on a cost of \$14 for a Highway Patrol fingerprint criminal history check and \$24 for an FBI fingerprinting criminal history check. Therefore, the CD current budget request would be insufficient to meet the costs of a fingerprinting if the legislation is passed. There would be an additional \$6 per check needed on the following providers:

ASSUMPTION (continued)

	<u>New</u>	<u>Renewals</u>	<u>Total</u>
Relative Homes	1,000	1,327	2,327
Adoptive Homes	1,145	2,658	3,803
Foster Homes	979	2,471	3,450
Court Ordered Placements	4,222		4,222
Supervision Only Placements	653		<u>653</u>
TOTAL			<u>14,455</u>

Therefore, CD assumes 14,455 x 2 persons per households x an additional \$6 = \$173,460 in costs resulting from the proposal. The CD assumes the cost breakout would be \$82,394 of General Revenue Funds and \$91,067 of Federal Funds.

Oversight assumes the proposal may or may not have an impact on the current budget request for CD, and have not reflected the potential increase in the fiscal note.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** state that according to their Criminal Records and Identification Division, the proposed legislation would increase the revenue received for name checks and fingerprint checks.

The Criminal Records and Identification Division (CRID) currently charges \$5.00 for a name check and \$14.00 for a fingerprint check. The proposed legislation allows the division to charge not more than \$10.00 for a name check and not more than \$20.00 for a fingerprint check. The Patrol assumes that it would not raise the fee the full amount allowed in the first year so a range will be used for the purpose of this fiscal note.

Currently, the Criminal Records Identification Division processes 501,060 name searches, which generates \$2,505,300 (501,060 x \$5) in revenue. The MHP assumes the additional revenue that could be generated with this proposal from the name searches, could be up to an additional \$2,505,300. Below are some of the incremental increases possible.

\$6 per check (\$1 increase) = \$501,060 in additional revenue
 \$7 per check (\$2 increase) = \$1,002,120 in additional revenue
 \$8 per check (\$3 increase) = \$1,503,180 in additional revenue
 \$9 per check (\$4 increase) = \$2,004,240 in additional revenue
 \$10 per check (\$5 increase) = \$2,505,300 in additional revenue

ASSUMPTION (continued)

Currently, the Criminal Records Identification Division processes 9,336 fingerprint searches, which generates \$130,704 (9,336 x \$14) in revenue. The MHP assumes the additional revenue that could be generated with this proposal from the fingerprint searches, could be up to an additional \$56,016. Below are some of the incremental increases possible.

\$15 per check (\$1 increase) = \$9,336 in additional revenue
\$16 per check (\$2 increase) = \$18,672 in additional revenue
\$17 per check (\$3 increase) = \$28,008 in additional revenue
\$18 per check (\$4 increase) = \$37,344 in additional revenue
\$19 per check (\$5 increase) = \$46,680 in additional revenue
\$20 per check (\$6 increase) = \$56,016 in additional revenue

The **overall** combined increases for the Criminal Records and Identification Fund, based on the increased fee for name checks and the increased fee for fingerprints checks would be from \$510,406 (\$1 dollar increase on both searches) to \$2,561,316 (increase fees to the maximums allowed by proposal).

The MHP assumes that some amount of increase would be made each year. MHP also assumes that the increase would only be about \$1.00 each time. A decision would have to be made to determine how much the fee would increase once the legislation passed, and how often it would increase after that. It is possible that the name check and fingerprint check fees would increase at different rates. At this time, there is no way to determine that.

The MHP also stated they do not charge state agencies for background checks, so this proposal would not result in additional cost to other state agencies.

The proposal states the MHP can charge not more than \$10 for a name check and not more than \$20 for a fingerprint check. Based on this and MHP's response, **Oversight** will range the fiscal impact of the proposal from \$0 (MHP is allowed to by statute but chooses not to raise the fees) to an additional \$2,516,316 in revenue to the Criminal Record System Fund.

ASSUMPTION (continued)

Officials from the **Kansas City Board of Police Commissioners (KCBOPC)** assume they license approximately 1,500 private security providers who are required to have a request for criminal history record information based on a fingerprint search. Part of the license fee reimburses KCBOPC for fourteen dollars it pays to the State per request for criminal history record information based on a fingerprint search. If the cost is increased to twenty dollars, the KCBOPC would request that its fees pursuant to 17 CSR 10-2.040 be increased accordingly, with said increase passed on to private security service providers. The net effect would be zero to KCBOPC since it would seek to raise license fees in order to cover the increased cost that would be paid to the state.

Oversight assumes some of the potential increase in background and fingerprint searches will be paid by local political subdivision (including local school districts) and some of the potential increase will be paid by various other non-governmental entities. Therefore, Oversight will range the fiscal impact of the proposal to local political subdivisions from \$0 to (Less than \$2,516,316).

County Law Enforcement Restitution Fund (§§50.550, 50.565, and 559.021)

Officials of the **Office of State Courts Administrator** stated that this proposal does not specify who would be responsible for receiving and accounting for what would in most cases be installment payments. Since the Sheriff and Prosecutor would be the beneficiaries of the fund, officials assume one of them would provide these services through local funds, and state-paid court clerks would not be required to perform this duty. If this assumption is valid, there would be no appreciable state cost. However, if the court clerks are required to provide this service, there would be a state cost in direct proportion to the volume of transactions.

Officials stated that traffic cases are technically misdemeanors, and if as an alternative to a traffic conviction, a defendant can get a suspended sentence for payment into the crime reduction fund, the potential volume could be in the hundreds of thousands of cases.

If cases that would otherwise have resulted in a conviction are shifted to a suspended imposition or execution of sentences, it is likely to result in the loss of revenue from fines to the schools, crime victims' compensation fund, law enforcement training and other earmarked funds.

In response to a similar proposal, officials of the **Department of Corrections** stated that passage of this bill would have no fiscal impact for the DOC as it would be the responsibility of each offender charged with restitution (as per this bill) to make his or her payment to the county fund and DOC would not be the collector of these funds.

ASSUMPTION (continued)

It must be noted, however, that two-thirds of the 29,000-plus incarcerated offenders within DOC have a fixed monthly income of \$7.50 to \$8.50 (once they have earned their GED they are eligible for the extra \$1) to spend for repayment of debt to the state of Missouri as restitution, child support, for court fees and/or to spend in their institutional canteen. The DOC is court-ordered to provide the \$7.50 monthly stipend in order for them to have access to the court system and to purchase hygiene items. Any increase in financial obligations for offenders could prompt a legal review of this \$7.50 amount which has been at this amount for 17 years thus resulting in the state being required to increase this stipend. In light of the indigent state of most incarcerated offenders, it is unrealistic to assume that all (or even a majority) of them would be paying into this fund.

In response to a similar proposal, **Jasper County** officials assume if a Fund were created that income would depend on how much the Judges used the Fund. Officials estimate that it could mean as much as \$20,000 for law enforcement in Jasper County.

In response to a similar proposal, **Jefferson County** officials assume no negative fiscal impact. Could produce income for law enforcement.

Oversight assumes that fiscal impact would depend upon several factors: 1) The County Commission would need to establish the Law Enforcement Restitution Fund; and 2) The amount of fiscal impact would depend on the number of cases the Court would suspend and require payment into the Crime Law Enforcement Restitution Fund.

Oversight assumes that to the extent there is a reduction in fines on the local level, schools would receive more money in state aid due to the school aid formula. Therefore, the loss of fine revenues would be subsidized by the State's General Revenue Fund.

Intoxication-Related Offenses (§§302.060, 302.302, 302.321, 302.541, and 577.500)

Officials from the **Department of Revenue (DOR)** assume the proposal will generate more five-year driver license denials. This will increase the number of notices of the denials as well as increased envelopes and postage to mail the notices of denial. Assuming an average of 2,400 new denials per year, DOR estimates the of the mailing the notices of denials to be \$1,008 per year.

ASSUMPTION (continued)

DOR also assumes the proposal will require programming changes to be made to Missouri Driver License system (MODL) to the denial routine. DOR estimates the cost of overtime programming to be \$2,000 (80 hours x \$25 per hour overtime rate for a Computer Information Technologist Specialist I). DOR assumes the programming changes will need to be tested. DOR estimates the testing cost to be \$3,200 (160 hours of testing x \$20 per hour overtime rate for a Computer Information Technologist II).

In addition, DOR assumes programming changes will need to be done to modify the reinstatement routine, status evaluation routine, purge routine, point evaluation routine, and the safe driving reduction routine. A new MODL letter will need to be created showing the suspension removed versus reinstated. Also a new kind of "cancel" status will need to be created. DOR estimates these programming costs to be \$8,000 (320 hours of overtime programming x \$25 per your overtime rate for a Computer Information Technologist Specialist I).

Peace Officer Standards and Training (POST) Commission Fund Surcharge (§488.5336)

Officials from the **Office of State Courts Administrator (CTS)** state in FY 03, approximately \$1,287,000 was deposited into the POST fund; CTS assumes approximately twice that amount would be realized if the amount assessed is doubled. Since the legislation would not become effective until 8/28/04, the amount collected would be for only 10 months in FY 05. CTS does not know how much is collected for the county or municipality law enforcement training since those moneys remain within the county or municipality.

DNA Profiling System (§§488.5400, 650.050, 650.052, 650.055, & 650.100)

In response to a similar proposal, officials from the **Office of Attorney General** assumed the costs are unknown, but anticipated to be less than \$100,000, to handle any new court proceedings arising under this legislation, particularly section 650.055.11 which allows for certain DNA records to be expunged.

Oversight assumes the AGO could absorb the cost of the proposed legislation within existing resources. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriation process.

ASSUMPTION (continued)

In response to a similar proposal, officials from the **State Treasurer's Office (STO)** assumed Sections 488.5400.3 and .4 require the STO to receive payments from circuit clerks and make deposits to the DNA profiling analysis fund. These are duties that the STO does not currently do. Therefore, the STO would require one FTE Accountant I (at \$30,804 per year) with the corresponding expense and equipment. The STO estimates the cost to be \$41,285 in FY 05; \$46,070 in FY 06; and \$47,225 in FY 07.

Oversight assumes the STO could absorb the cost of the proposed legislation within existing resources. If the STO experiences an increase that would require additional funding, they could request the funding through the appropriation process.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would make various revisions to the statutes relating to DNA analysis, expanding the list of those persons who must provide a sample. The legislation also imposes a series of surcharges on certain court cases to be deposited in the DNA analysis fund. Based on FY 03 data, CTS estimates that approximately \$1,942,976 would be deposited in the fund annually. CTS would not expect the collection of these surcharges to have a fiscal impact on the workload of the courts. Persons who have been proven innocent and whose conviction has been set aside may petition the court for expungement of their DNA-related records. CTS would not expect that the number of persons seeking expungement would be so great as to have a fiscal impact on the courts.

In response to a similar proposal, officials from the **Department of Corrections (DOC)** assume this proposal mandates that DOC (which includes the Division of Probation and Parole, or P&P) to collect DNA samples from all felony offenders which includes convictions, nolos, and guilty pleas (including SIS and SES.)

DOC has around 30,000 offenders in the Division of Adult Institutions (DAI) with day-to-day turnover of offenders. DOC has about 60,000 felons under supervision in P&P at any given time with constant changeover.

ASSUMPTION (continued)

The current DNA database and tracking system would have to be modified system-wide to identify offenders who would need to be tested, notify and counsel with those offenders, schedule and ascertain availability of offenders for testing, and provide that staff witness the collection at the time of the test. Evidence handling protocol would have to be enhanced. Staff would have to be funded for each site. DOC's contracted inmate medical care provider does not collect blood for forensic functions, but merely for patient care purposes. DOC assumes a mouth-swab could be performed by current staff. The additional staff person who has to be present at the time of testing would be absent from their current post and job duties.

Offenders in the field (as opposed to incarcerated offenders) are much more likely to fail to appear and then have to be located and physically brought to the testing site. Court action is sometimes necessary and this is a costly endeavor to the state. It is impossible to estimate the number of offenders who might abscond to avoid testing and/or payment. It is also impossible to estimate how many further incarcerations would result due to failure to comply with this proposal. This proposal does not mandate revocations for failure to comply for P&P offenders, but provides that the Board recommends it. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY03 average of \$38.10 per inmate per day, or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender per day, or an annual cost of \$1,150 per offender).

Incarcerated offenders can refuse to be tested. Use-of-force would be authorized to collect a sample. There will be overtime for the use-of-force and the subsequent paperwork, as well as additional staff accidents/workman comp claims.

In summary, the fiscal impact for DOC to implement this proposal would be unknown, but would be very significant.

ASSUMPTION (continued)

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the proposed legislation would increase current annual DNA analysis from approximately 2,200 to 28,000 (new offenders) samples. Upon implementation of the law, approximately 108,575 (backlog) adult individuals who are presently under the supervision of the Department of Corrections will qualify for collection and analysis. The MHP would provide training and collection kits to the Department of Corrections. With equipment upgrades, the Profiling Unit of the MHP's Crime Lab would be able to analyze the annual incoming offender samples and a portion of the offender backlog. It is unknown how quickly the Department of Corrections would provide the DNA samples from individuals already incarcerated or under field supervision to the MHP for analysis. MHP assumes the backlog samples would be provided by the Department of Corrections and be analyzed over a period of four years. The DNA processing cost is based on the estimated number of offenders, which was provided by the Department of Corrections in 2003, multiplied by the present cost of reagents and supplies. The equipment upgrade and additional employees are based on the estimated number of annual new offenders (not the initial backlog of 108,575) and the number of employees and the number and type of equipment needed to process these samples.

The Crime Lab would require the following additional FTE as a result of the proposed legislation:

2 Criminalists (each at \$28,044 per year) – duties would be to perform DNA sample preparation, analysis and review.

1 Laboratory Evidence Control Clerk (at \$18,732 per year) – duties would be to perform data entry, filing, and sample tracking and control.

1 Laboratory Evidence Technician (at \$22,320 per year) – duties would be to perform sample preparation, equipment maintenance and other laboratory support duties.

MHP estimates the total cost, subject to appropriations, to be \$1,510,934 in FY 05; \$1,730,612 in FY 06; and \$1,781,758 in FY 07. FY 05 costs reflect 6 months for Chapter 650 costs.

MHP assumes the proposed legislation would result in long-range costs due to the increase current annual DNA analysis from approximately 2,200 to 28,000 (new offenders) samples. Upon implementation of the law, approximately 108,575 (backlog) adult individuals who are presently under the supervision of the Department of Corrections will qualify for collection and analysis. MHP assumes the backlog samples would be provided by the Department of Corrections and be analyzed over a period of four years. MHP estimates the long-range costs, subject to appropriations, to be \$1,627,561 in FY 08 and FY 09; \$1,302,611 in FY 10; and

ASSUMPTION (continued)

\$977,631 in FY 11 and beyond.

In response to a similar proposal, officials from the **Office of Administration – Division of Budget and Planning** assumed the payment of restitution could result in an unknown cost to general revenue.

Oversight assumes restitution to individuals who are exonerated of a crime and released from incarceration as a result of the DNA profiling analysis would be paid from the DNA Profiling Analysis Fund. The amount of restitution is Unknown.

Elimination of Bifurcated Trials (§557.036)

In response to a similar proposal, officials from the **Office of Attorney General** assumed there would be a cost savings of less than \$100,000 because fewer cases would be subject to the bifurcated trial procedure.

Section 43.530 of this proposal could increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Savings – Office of Attorney General</u> (§557.036)			
Fewer bifurcated trials	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>
<u>Transfer out – to State School Moneys</u> Fund	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown) to</u> <u>Less than</u> <u>\$100,000</u>	<u>(Unknown) to</u> <u>Less than</u> <u>\$100,000</u>	<u>(Unknown) to</u> <u>Less than</u> <u>\$100,000</u>

DNA PROFILING ANALYSIS FUND

Revenues – State Treasurer’s Office

Court fees (§§488.5400, 650.050, 650.052, 650.055, & 650.100)	\$1,619,147	\$1,942,976	\$1,942,976
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Costs – Missouri State Highway Patrol (§§488.5400, 650.050, 650.052, 650.055, & 650.100)

Personal Service (4 FTE)	(\$49,784)	(\$102,058)	(\$104,609)
Fringe Benefits	(\$25,519)	(\$52,315)	(\$53,623)
Equipment and Expense	<u>(\$1,448,390)</u>	<u>(\$1,576,239)</u>	<u>(\$1,623,526)</u>
<u>Total Costs</u> – MHP	<u>(\$1,523,693)</u>	<u>(\$1,730,612)</u>	<u>(\$1,781,758)</u>

Costs – Department of Corrections

Increased personnel and expense costs (§§488.5400, 650.050, 650.052, 650.055, & 650.100)	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
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Costs – Office of Administration

Restitution	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON DNA PROFILING ANALYSIS FUND

<u>(\$4,553 to Unknown)</u>	<u>(Unknown) to \$112,364</u>	<u>(Unknown) to \$61,218</u>
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CRIMINAL RECORD SYSTEM FUND

Income – Missouri State Highway Patrol (§43.530)

Increase fees for background checks	\$0 to <u>\$2,516,316</u>	\$0 to <u>\$2,516,316</u>	\$0 to <u>\$2,516,316</u>
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ESTIMATED NET EFFECT TO THE CRIMINAL RECORD SYSTEM FUND

<u>\$0 to \$2,516,316</u>	<u>\$0 to \$2,516,316</u>	<u>\$0 to \$2,516,316</u>
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STATE SCHOOL MONEYS FUND

<u>Transfer in</u> – from General Revenue Fund	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
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<u>Costs</u> – transfer to local school districts	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
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ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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HIGHWAY FUND

Costs – Department of Revenue
 (§§302.060, 302.302, 302.321, 302.541,
 577.500)

Programming	(\$10,000)	\$0	\$0
Testing	(\$5,700)	\$0	\$0
Postage	<u>(\$840)</u>	<u>(\$1,008)</u>	<u>(\$1,008)</u>
	(\$16,540)	(\$1,008)	(\$1,008)

ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>(\$16,540)</u>	<u>(\$1,008)</u>	<u>(\$1,008)</u>
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PEACE OFFICER STANDARDS AND TRAINING COMMISSION FUND

Revenues – State Treasurer’s Office
(§488.5336)

Increased court surcharge	\$1,072,500	\$1,287,000	\$1,287,000
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<u>Costs</u> – To local law enforcement agencies (\$488.5336)	(\$1,072,500)	(\$1,287,000)	(\$1,287,000)
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ESTIMATED NET EFFECT ON PEACE OFFICER STANDARDS AND TRAINING COMMISSION FUND	\$0	\$0	\$0
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<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
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LOCAL POLITICAL SUBDIVISIONS

<u>Income</u> – to Certain School Districts from State’s School Aid Formula	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
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<u>Income</u> – Local Law Enforcement Agencies (\$488.5336) From Peace Officer Standards and Training Commission Fund	\$1,072,500	\$1,287,000	\$1,287,000
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<u>Loss</u> – to Certain School Districts from reduction in fines	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
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<u>Costs</u> - increased fees for background checks.	\$0 to (Less than \$2,516,316)	\$0 to (Less than \$2,516,316)	\$0 to (Less than \$2,516,316)
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ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>(Less than \$2,516,316) to More than \$1,072,500</u>	<u>(Less than \$2,516,316) to More than \$1,287,000</u>	<u>(Less than \$2,516,316) to More than \$1,287,000</u>
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**COUNTY LAW ENFORCEMENT
AND RESTITUTION FUND**

<u>Income</u> – Law Enforcement Fund Court ordered payment	Unknown	Unknown	Unknown
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<u>Costs</u> – Law Enforcement Fund Law Enforcement programs	(Unknown)	(Unknown)	(Unknown)
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ESTIMATED NET EFFECT TO COUNTY LAW ENFORCEMENT AND RESTITUTION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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*** Fiscal impact would be dependent upon the County Commission establishing a Crime Reduction Fund and upon the number of cases that would be suspended without a fine.**

FISCAL IMPACT - Small Business

Small businesses that need background checks to be performed by the Missouri State Highway Patrol could be paying more for the service as a result of this proposal.

DESCRIPTION

The proposed legislation would eliminate offender's right to have a sentence reduced by any alteration of the law. The proposal would also eliminate the board of probation and parole's right to convert consecutive sentences to concurrent sentences in certain circumstances.
(§§1.160 and 558.019)

This proposal modifies the fee paid by those requesting criminal history record information. The fee is increased from five to ten dollars per request for information not based on a fingerprint search and from fourteen to twenty dollars per request for information based on a fingerprint search. (§43.530)

The proposal would make a technical change to the definition of "Missouri criminal record review" to mean a review of both criminal history records and sex offender registration records.
(§43.540)

The proposal would allow counties to establish by ordinance the County Law Enforcement Restitution Fund. The fund would receive money from court-ordered restitution. The restitution could not exceed \$275 for any charged offense. If a defendant fails to make a payment to the fund, probation could be revoked. The fund could only be used for law enforcement expenditures specified in the bill and would be supervised by a board of five trustees appointed by certain county officials. The county would not be prohibited from reducing any law enforcement agency's budget as a result of establishing the fund. The fund would be subject to audit. (§§50.550, 50.565, 559.021)

DESCRIPTION (continued)

The proposal would replace references to the offense of driving while intoxicated with the broader term “intoxication-related offense” in several provisions for the purpose of determining punishment or the number of prior convictions. Intoxication-related offenses would include driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter with a vehicle while intoxicated, assault of a law enforcement officer with a vehicle while intoxicated, and driving under the influence of alcohol or drugs in violation of a county or municipal ordinance. The proposal would allow law enforcement officials, after obtaining a search warrant, to collect blood, saliva, or urine from a person under the age of 21 who is arrested for an intoxication-related driving offense, even though the person has refused the test. The person would still face license revocation for refusing the test. The proposal would also make a technical change for determining the prior offenses in a driving while revoked or alcohol-related offense. Currently, convictions in municipal courts for driving with a revoked license or for alcohol-related offenses are not counted as prior offenses unless the municipal judge is an attorney. The proposal would remove the requirement that the municipal judge be an attorney in those cases. (§§302.060, 302.302, 302.321, 302.541, and 577.500).

The proposed legislation would prohibit any person other than emergency personnel from using any device to change a traffic control signal. The sale of these devices any person other than emergency personnel would be prohibited. Any person who violates this provision would be guilty of a class A misdemeanor. (§304.078)

The proposal would increase from \$2 to \$3 a surcharge that counties and municipalities may assess and increase from \$1 to \$2 a surcharge that is required to be assessed in criminal cases involving criminal or traffic laws, county ordinances, or municipal ordinances for law enforcement training. The maximum amount that could be retained by counties or municipalities for this purpose is increased from \$1,500 to \$3,500, with excess funds to be transferred to the general revenue fund of the county or municipality. The proposal would also require the Attorney General’s office to investigate any alleged supplanting of these funds by a county or municipality and would require all funds found to be supplanted to be reinstated. (§488.5336)

DNA Profiling System (§§488.5400, 650.050, 650.052, 650.055, & 650.100)

The proposed legislation would impose a series of surcharges on certain court cases to be deposited in the DNA Profiling Analysis Fund. No moneys from the state general revenue fund would be appropriated for the purposes of funding the DNA profiling analysis. (§488.5400)

DESCRIPTION (continued)

The proposed legislation would provide that results of forensic DNA analysis be admissible as evidence to prove or disprove any relevant fact during a criminal trial or proceeding. Under this proposal, the "DNA Profiling System" is designed to assist federal, state, and local law enforcement with the identification, investigation, and prosecution of individuals, as well as the identification of missing people. (§650.050)

The proposal would require the DNA profiling system to support the development of forensic studies and protocols, and maintain a population statistics database for crime laboratories, in addition to the other activities it performs.

The proposal would require the DNA profiling system to collaborate with the FBI and other agencies relating to the state's participation in the FBI's Combined DNA Index System(CODIS).

The proposal would allow, subject to appropriations, the Department of Corrections, Division of Probation and Parole, an authorized designee, or a contracted third party to collect DNA samples from qualified offenders who are under the custody and control of the Department of Corrections. For qualified offenders who are under custody and control of a county jail, the DNA sample would, subject to appropriations, be performed by the county jail, its authorized designee, or contracted third party.

This proposal would require that every individual, who pleads guilty to a felony or any sexual offense pursuant to Chapter 566, RSMo, provide a sample for the purposes of DNA profiling analysis. An individual would be tested: 1) upon entering the Department of Corrections; 2) before release from a county jail, detention facility, state correctional facility, or other detention facility or institution; 3) upon being admitted to Missouri from another state pursuant to an interstate compact; or 4) while under the jurisdiction of the Department of Corrections.

The proposal would require a person to provide another sample for DNA profiling analysis, if his or her original sample was not adequate for any reason. In addition, the proposal would limit the effect of obtaining or placing an offender's DNA sample in the database by mistake.

This proposal would make all DNA records and biological materials retained for the DNA profiling system closed records. The records would be considered confidential, and with limited exceptions, could not be disclosed. Anyone would who properly obtain the records could only use the information for certain specified purposes.

DESCRIPTION (continued)

The proposal would allow individuals to request expungement of their DNA sample and profile if the court issues a dismissal of the charges or reversal of the decision. The proposal would set out the proper procedure to be used when a person requests expungement of his or her information and such expungement is granted. With the expungement of information, the highway patrol would not be required to destroy evidence obtained from DNA samples if evidence relating to other people would be destroyed as well. The failure or delay in expunging a person's information would not be a reason to suppress evidence or change the result of his or her case. Within 30 days after the receipt of the court order, the Missouri State Highway Patrol would notify the individual that it has expunged his or her DNA sample and profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

An individual who is exonerated of a crime and released from incarceration because of the results of DNA profiling analysis would be paid an amount equal to the US Department of Health and Human Services federal poverty guidelines for each year of incarceration in restitution by the state. Such individuals would be prohibited from seeking any civil redress from the state.

The proposed legislation would revise the law on the role of the court and jury in sentencing to eliminate the bifurcated system for juries. (§557.036)

The proposed legislation would create the crime of endangering a corrections employee. An offender or prisoner would commit the crime if he or she attempted to cause or knowingly cause a corrections employee to come into contact with blood, seminal fluid, urine, feces, or saliva. Endangering a corrections employee would be a class D felony unless the substances is unidentified, in which case it would be a class A misdemeanor. If the offender or prisoner is knowingly infected with HIV, hepatitis B, or hepatitis C and commits the crime of endangering a corrections employee, it would be a class B felony. Under current law, these actions fall under the crime of aggravated harassment of an employee and apply to cases involving corrections employees as well as employees in any mental health facility or any secure facility operated by the Division of Youth Services. The proposal would remove inmates and correctional facilities from the provisions of Section 565.092, RSMo. (§§565.087 and 565.092)

The proposed legislation would revise the resisting arrest statute to include providing false identifying information to a law enforcement officer. The proposal would also include resisting detentions or stops by fleeing in a manner that creates a substantial risk of serious physical injury or death as a class D felony. (§575.150)

In addition to those committed for mental disease or defect, the proposed legislation would make the crime of escape from commitment for those committed to a state mental hospital as a sexually violent predator a class D felony. (§575.195)

DESCRIPTION (continued)

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 the Attorney General
Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Transportation
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Revenue
Department of Social Services
Department of Public Safety
 – Capitol Police
 – Missouri State Water Patrol
 – Missouri State Highway Patrol
Office of Prosecution Services
Office of the Secretary of State
Kansas City Board of Police Commissioners



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