

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1499-01
Bill No.: HB 557
Subject: Courts; Crimes and Punishment; Judges; Juries; Department of Public Safety
Type: Original
Date: May 2, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(Less than \$162,178)	(Less than \$175,008)	(Less than \$176,982)
Total Estimated Net Effect on General Revenue Fund	(Less than \$162,178)	(Less than \$175,008)	(Less than \$176,982)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Missouri Laboratory Oversight Committee Revolving*	\$0	\$0	\$0
Justice Improvement*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds*	\$0	\$0	\$0

* Offsetting income and expenses.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Governor's Office, Department of Transportation, Department of Social Services, Missouri House of Representatives, Missouri Senate, and the Office of the State Public Defender** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Southeast Missouri Regional Crime Laboratory** responded to Oversight's request, but issued no fiscal impact statement.

Officials from the **Office of the Attorney General (AGO)** assume the portion of this bill relating to electronic recording of custodial interrogations will lead to additional appeals and additional points on appeal for cases that would be appealed on other grounds. Because of the large number of custodial interrogations and the likelihood that admissibility of a number of these interrogations may be challenged under the proposal, the AGO assumes the cost of handling the additional appeals could be significant and would require an additional AAG II (at \$36,750 per year) to cover the additional workload. The AGO estimates the total cost to be \$62,000 in FY 06, \$75,000 in FY 07, and \$77,000 in FY 08.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would assess a surcharge of \$5.00 in each court proceeding filed in all criminal cases, including ordinance violations, traffic offenses, and infractions. The surcharge is not to be collected where a defendant is dismissed or costs are paid by the state, county or municipality. Four dollars of the surcharge collected is to be deposited in the Missouri Laboratory Oversight Committee Revolving Fund, which is created in the bill, and \$1.00 is to be deposited in the Justice Improvement Fund, also created in the bill.

CTS calculations take into account the fact that felony collection rates are only between 50% and 60%, and misdemeanor, traffic and ordinance violation collection rates average 80%. The Fine Collection Center rate is 100%. This surcharge is assessed on all criminal cases. Since some of these defendants often do not have steady employment or cash reserves, the court often gives the defendants the period of probation to pay the costs and fines. Therefore, the revenue generated the first year is less than that generated in subsequent years. CTS notes the felony collection rate increases over a period of four years, which CTS believes to be the average probation served for felonies. The collection rate for misdemeanors increases over two years, the average probation time for misdemeanants.

Based on a 50% felony collection rate, CTS calculations indicate that the legislation will produce \$1,292,417 in the 1st 12 months, \$1,320,058 in the 2nd 12 months, \$1,326,596 in the 3rd 12 months, and \$1,333,133 annually thereafter. Based on a 60% felony collection rate, our calculations indicate that the legislation will produce \$1,293,724 in the 1st 12 months, \$1,322,673 in the 2nd 12 months, \$1,330,518 in the 3rd 12 months, and \$1,338,368 annually thereafter. **Oversight** has based the fiscal estimate on a 50% felony collection rate.

Officials from the **Department of Corrections (DOC)** assume this proposal makes various changes to the criminal justice system. Penalty provisions, the component of the bill to have potential fiscal impact for the DOC, is for up to a class B felony.

Currently, the DOC cannot predict the number of new commitments which may result from the enhancement of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

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 (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 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).

ASSUMPTION (continued)

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, DOC assumes the impact would be less than \$100,000 per year for their agency.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume there would be no impact based on the proposed legislation, however the duties of the Lab Oversight Committee are not clear. The Lab Oversight Committee that would be created would have power and control of crime labs in the state, but it is unknown what types of decisions would be made that would affect the MHP's Lab. Therefore, the Patrol assumes no impact. Section 491.800 would require videotapes to be purchased, but if the cost remains insignificant, it could be absorbed by the MHP's current budget. Other sections (491.809 RSMo, for example) of the proposed legislation could potentially result in a fiscal impact over \$150,000, but because the language is vague and the intent is unclear, the Patrol is assuming no impact at this time.

Officials from the **Office of the Secretary of State (SOS)** assume the proposal would give the Department of Public Safety the authority to adopt 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 06 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.

ASSUMPTION (continued)

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. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Springfield Police Department** assume the proposal could result in additional costs for equipment, tapes, and labor costs. Officials estimate the cost to be \$6,000 to \$8,000 annually.

Officials from the **St. Louis Metropolitan Police Department** assume the proposal could result in costs of \$100,000 to \$1,000,000 to update their facilities.

Officials from the **Office of Prosecution Services** did not respond to Oversight's request for fiscal impact. However, in response to a similar proposal from the 2004 Session (SB 942, LR # 2654-03), officials from the **Boone County Prosecuting Attorney's Office** assumed any and all tapes, etc. would have to be copied and maintained and sent in discovery, which would greatly increase the financial burden on prosecutors.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Costs</u> – Office of the Attorney General			
Personal Service (1 FTE)	(\$31,391)	(\$38,610)	(\$39,576)
Fringe Benefits	(\$13,391)	(\$16,471)	(\$16,883)
Equipment and Expense	<u>(\$17,396)</u>	<u>(\$19,927)</u>	<u>(\$20,523)</u>
<u>Total Costs</u> – AGO	(\$62,178)	(\$75,008)	(\$76,982)
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Less than \$162,178)</u>	<u>(Less than \$175,008)</u>	<u>(Less than \$176,982)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
MISSOURI LABORATORY OVERSIGHT COMMITTEE REVOLVING FUND			
<u>Revenues</u> – From court surcharge	\$861,611	\$1,056,046	\$1,061,277
<u>Costs</u> – For DNA testing of currently incarcerated individuals and improvement of DNA database	(\$430,805)	(\$528,022)	(\$530,639)
<u>Costs</u> – For accreditation testing and auditing of crime labs	(\$215,403)	(\$264,012)	(\$265,319)
<u>Costs</u> – For equipment and training for MO crime lab personnel	<u>(\$215,403)</u>	<u>(\$264,012)</u>	<u>(\$265,319)</u>
ESTIMATED NET EFFECT ON MISSOURI LABORATORY OVERSIGHT COMMITTEE REVOLVING FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
JUSTICE IMPROVEMENT FUND			
<u>Revenues</u> – Department of Public Safety From court surcharge	\$215,403	\$264,012	\$265,319
<u>Costs</u> – Department of Public Safety To local law enforcement agencies	<u>(\$215,403)</u>	<u>(\$264,012)</u>	<u>(\$265,319)</u>
ESTIMATED NET EFFECT ON JUSTICE IMPROVEMENT FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – Law Enforcement Agencies from Justice Improvement Fund	\$215,403	\$264,012	\$265,319
<u>Costs</u> – Law Enforcement Agencies			
Reimburse officer training expenses	(\$215,403)	(\$264,012)	(\$265,319)
Equipment	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> – Prosecuting Attorneys	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation changes the laws regarding the criminal justice system. In its main provisions, the proposal:

- (1) Requires a \$5 surcharge to be assessed in all criminal cases, including traffic violation infractions. The surcharge will be used to fund the Missouri Laboratory Oversight Committee Revolving Fund and the Justice Improvement Fund;
- (2) Requires that all interviews of suspects or witnesses in homicide investigations be electronically recorded when they are conducted in a police station;

DESCRIPTION (continued)

(3) Requires any interview of a person who appears to suffer from some form of mental retardation be electronically recorded when the interview occurs in a police facility and is related to a felony. If the person is under the age of 12 or if the peace officer reasonably believes that the person has significant learning disabilities, the questions posed to that individual may not be leading;

(4) Requires prosecutors to obtain a sworn affidavit from any witness testifying about admissions made by a defendant while the defendant and the witness were incarcerated. The affidavit which lists the facts, including the consideration provided by the prosecution for the witness's cooperation and whether the witness has testified in any other cases, must be obtained at least seven days before the witness testifies. The Department of Public Safety must keep a registry of all these witnesses and retain copies of these affidavits;

(5) Requires police to provide to the prosecutor a complete list of all pieces of evidence, as well as the name and contact information for all witnesses. This list must be certified and provided to the prosecutor within 10 days of the presentment of the investigation to the prosecutor. The police must update the list every 30 days until the case is closed;

(6) Requires the department to provide all law enforcement in the state with a standardized eyewitness evidence form that must be used whenever the witness did not know the suspect at the time of the crime. The department must promulgate an eyewitness evidence protocol regarding the viewing of suspect line-ups or photo-spreads. A violation of the protocol will require that the jury be instructed as to the risks of mistaken eyewitness identification. If eyewitness testimony is provided at trial, the jury must be instructed as to its reliability;

(7) Requires the preservation of any evidence that can be tested for DNA when used in any felony conviction. Currently, only convictions for a sex offense or a crime against a person are required to be preserved;

(8) Establishes the State Crime Laboratory Oversight Committee, composed of seven persons with a legal, medical, or law enforcement background, appointed by the Governor. The committee will have the authority to issue public reprimands or to sanction a laboratory or its personnel for violations of scientific testing protocols;

(9) Creates the State Crime Laboratory Oversight Committee Revolving Fund which will pay for, upon committee approval, the DNA testing of incarcerated persons, the purchasing of new equipment for the crime labs, and the training of crime lab personnel;

DESCRIPTION (continued)

(10) Creates the Justice Improvement Fund to provide scholarships for training and educational programs for law enforcement officers;

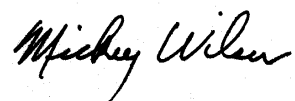
(11) Requires crime labs to keep records for seven years, including their technician lab notes, methodology, protocols, auditing procedures, proficiency testing results, and any equipment testing or calibration records; and

(12) Requires the department to promulgate a standard salary compensation level for all law enforcement officers in the state and post its recommendations on the department's web site.

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
Governor's Office
Office of State Courts Administrator
Department of Transportation
Department of Corrections
Department of Social Services
Department of Public Safety
 – Missouri State Highway Patrol
Missouri House of Representatives
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
Southeast Missouri Regional Crime Laboratory
Springfield Police Department
St. Louis Metropolitan Police Department
Boone County Prosecuting Attorney's Office



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