

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2103-02
Bill No.: HB 920
Subject: Courts
Type: Original
Date: April 18, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Drug Forfeiture	More than \$100,000	More than \$100,000	More than \$100,000
Total Estimated Net Effect on <u>All</u> Federal Funds	More than \$100,000	More than \$100,000	More than \$100,000

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 **Office of Administration, Department of Natural Resources, Department of Revenue, Department of Conservation, Office of the State Public Defender, Missouri Gaming Commission, Boone County Sheriff's Department, and the Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from the proposal can be absorbed within existing resources.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would make significant changes in the criminal and civil forfeiture statutes. These new procedures would create a significant increase in clerical workload, but CTS is unable to quantify that increase at this time. While the cost is unknown, CTS assumes the cost could probably exceed \$100,000 in a given year.

ASSUMPTION (continued)

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the proposal would result in an unknown impact that is expected to be more than \$100,000 per year. At the time the fiscal note was prepared, a study was being conducted to determine the dollar amount of previous seizures and the percentage of how much of that has been returned to the MHP. Once those numbers are established, a better estimate of the impact of the proposed legislation can be given.

Officials from the **Department of Corrections (DOC)** assume they 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).

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.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** assume the proposal would repeal certain sections of law. As a result, the Missouri Gaming Commission would need to amend a rule to correct a statutory reference. This rule is published in the Missouri Register and the Code of State Regulations. Based on experience with other divisions, the rules, regulations, and forms issued by the Missouri Gaming Commission could require as many as 4 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 \$246 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.

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.

Officials from the Greene County Sheriff's Department, Jackson County Sheriff's Department, Columbia Police Department, Kansas City Police Department, St. Louis County Police Department, and the St. Louis Metropolitan Police Department did not respond to Oversight's request for fiscal impact.

Oversight assumes local law enforcement agencies and school districts could receive revenues from the proceeds of forfeited seized property. Oversight assumes the amount of revenues is unknown.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Costs</u> – Department of Corrections Incarceration/probation costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Office of State Courts Administrator Administrative costs	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
 DRUG FORFEITURE FUND			
<u>Revenues</u> – Missouri State Highway Patrol Proceeds from drug seizures	More than <u>\$100,000</u>	More than <u>\$100,000</u>	More than <u>\$100,000</u>
ESTIMATED NET EFFECT ON DRUG FORFEITURE FUND	More than <u>\$100,000</u>	More than <u>\$100,000</u>	More than <u>\$100,000</u>

FISCAL IMPACT - Local Government

FY 2006
(10 Mo.)

FY 2007

FY 2008

POLITICAL SUBDIVISIONS

Revenues – Local law enforcement
agencies

Proceeds from forfeited seizures

Unknown

Unknown

Unknown

Revenues – School districts

Proceeds from forfeited seizures

Unknown

Unknown

Unknown

**ESTIMATED NET EFFECT ON
POLITICAL SUBDIVISIONS**

Unknown

Unknown

Unknown

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation would repeal the civil procedures regarding criminal activity forfeiture actions and establish new procedures for the seizing of property tied to criminal activity. Any property used or intended to be used in the commission of a crime, or the proceeds of any crime, would be subject to criminal forfeiture. Property could be subject to forfeiture even though a criminal prosecution is not conducted.

The circuit court where the property seizure occurred would have jurisdiction over any seized property. Law enforcement could seize any property subject to forfeiture upon the issuance of a search warrant or when there is probable cause that the property is subject to forfeiture. The seizure of inhabited residential property would require an adversarial judicial determination prior to seizure unless the prosecution can demonstrate exigent circumstances at an ex parte proceeding. Real property would not be subject to forfeiture in prosecutions for possession of controlled substances solely for personal consumption.

The owner of seized property could obtain release of the property upon posting a surety bond equal to the fair market value of the property. The court could order the property seized to be sold, leased, or operated to preserve the interests of any party.

DESCRIPTION (continued)

If property subject to forfeiture is lost, transferred to a third party, moved beyond the jurisdiction of the court, commingled with other property, or subject to a legal claim by an innocent party exempt from forfeiture proceedings, the court could order the forfeiture of other property in the property owner's possession.

Forfeiture proceedings would be required to be commenced within seven years of the activity making the property subject to forfeiture.

The proceeds of the sale of forfeited property would be distributed in the following manner: satisfaction of any liens upon the property held by innocent parties; payment of all expenses of the forfeiture proceedings, including the expenses of seizure; school safety measures, such as drug eradication efforts, which could not exceed 50% of the total proceeds of the sale; and the remainder to the schools in the county.

The proposal would include procedures to allow innocent parties who have a legal claim to the property to protect their interests in the property.

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 Administration
Office of State Courts Administrator
Department of Natural Resources
Department of Corrections
Department of Revenue
Department of Public Safety
 – Missouri State Highway Patrol
Department of Conservation
Office of the Secretary of State
Office of Prosecution Services
Office of the State Public Defender
Missouri Gaming Commission
Boone County Sheriff
Springfield Police Department

BLG:LR:OD (12/02)

L.R. No. 2103-02
Bill No. HB 920
Page 8 of 8
April 18, 2005

NOT RESPONDING

Greene County Sheriff's Department, Jackson County Sheriff's Department, Columbia Police Department, Kansas City Police Department, St. Louis County Police Department, and the St. Louis Metropolitan Police Department

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

Mickey Wilson, CPA
Director
April 18, 2005