

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0468-01
Bill No.: HB 62
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies; Drugs and Controlled Substances
Type: Original
Date: January 28, 2009

Bill Summary: The proposal modifies various crime prevention laws.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
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 2010	FY 2011	FY 2012
Road	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Crime Victims' Compensation	(More than \$207,458)	(More than \$207,458)	(More than \$207,458)
State School Moneys	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	(More than \$207,458)	(More than \$207,458)	(More than \$207,458)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	0	0	0

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Governor, Office of Administration – Administrative Hearing Commission, Department of Natural Resources, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Social Services, Department of Public Safety – Missouri State Highway Patrol, Department of Conservation, 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 this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator (CTS)** assume there are a number of new crimes created, and some changes in criminal procedures, but CTS would not anticipate a fiscal impact in excess of \$100,000. There would be an increase in the amount of moneys collected, but CTS has no way of quantifying the increase at this time.

Officials from the **Department of Corrections (DOC)** assume the provisions in several sections (§§271.670, 409.5-508, 565.081, 575.150, 578.255) would increase penalties, potentially resulting in increased incarcerations/probations to the DOC. In aggregate, these changes could impact the DOC by an unknown but greater than \$100,000 amount per fiscal year.

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 direct offender cost either through incarceration (FY08 average of \$15.64 per offender, per day or an annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender).

At this time, the DOC is unable to determine the exact number of people who would be convicted under the provisions of this bill and whether or not additional inmate beds may be required as a consequence of passage of this proposal. The cumulative effect of various new legislation, if adopted as statute may require institutional facility expansion.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eighteen (18) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. DOC estimates potential costs could be in excess of \$100,000 per year.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** assume 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 proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **Office of the State Public Defender (SPD)** assume increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Section 50.565 – County Law Enforcement Restitution Fund

Officials from the **Office of State Courts Administrator (CTS)** assume Section 50.565, RSMo, would allow the court to order a person to pay into the county law enforcement restitution fund for a moving violation. 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 county law enforcement restitution fund, the potential volume could be in the thousands of cases. If cases that would otherwise have resulted in a conviction are shifted to a suspended imposition or execution of sentence, it is likely to result in the loss of revenue from fines to the schools, crime victims' compensation, law enforcement training, and other earmarked funds. Currently, the total cost for a traffic ticket stands at \$56.50. This proposal would significantly increase the cost of those tickets where the fee was assessed.

ASSUMPTION (continued)

Section 195.217 – Distribution of a Controlled Substance in or near a Park

Officials from the **Office of State Courts Administrator (CTS)** assume Section 195.217, RSMo, would make the distribution of a controlled substance in or near a park a class A felony. Some cases may become protracted. CTS would not anticipate a significant impact on the budget of the judiciary.

Section 302.060 – Driving Privileges/Repeat Alcohol-Related Offenses

Officials from the **Department of Transportation (MoDOT)** assume Section 302.060 is amended to clarify the Department of Revenue will not grant driving privileges to offenders who commit repeat alcohol-related offenses.

Officials from the **Department of Revenue (DOR)** assume this section would add other alcohol-related traffic offenses to those the DOR may currently use for five-year license denials. New offense for use for five-year denials include:

1. BAC (excessive blood alcohol content – 577.012);
2. Alcohol-related assault second degree, 565.060.1(4);
3. Assault on law officer, 2nd degree, 565.082.1(4);
4. Any state, county or municipal offense for driving under the influence of alcohol or drugs; and
5. Any comparable out-of-state, federal or military offense.

Sections 311.325, 311.326, 577.500, 577.505 – Minor in Possession

Officials from the **Department of Transportation (MoDOT)** state the proposal amends section 311.325 so anyone under the age of 21 will also be charged with a minor in possession (MIP) if that person purchases or attempts to purchase, or has in his or her possession, any nonintoxicating beer. This may result in an increase in the number of persons who are charged with a MIP.

Under Missouri's current Abuse and Lose law (Section 577.500), persons between the ages of 15 and 21 who plead guilty to or are convicted of a MIP will have their driver's license suspended or revoked. The period of suspension or revocation will be 30 days, 90 days, or one year (depending upon whether this is the person's first, second, or third MIP).

ASSUMPTION (continued)

MoDOT officials state section 577.500 is amended so the revocation of a person's driver's license for a conviction or plea of guilty to a MIP will be discretionary rather than mandatory. So, while more people could be charged with a MIP based on the changes to Section 311.325, whether that will actually result in an increase in driver's license suspensions and revocations under Abuse and Lose is unknown. There could actually be an overall decrease in MIP-related Abuse and Lose suspensions and revocations, if judges decide not to order a suspension or revocation of the offender's driving privileges.

The law is amended to also require the suspension or revocation of a person's driving privileges when that person is convicted of or pleads guilty to any offense involving the unlawful possession or use of drug paraphernalia. This should result in an increase in driver's license suspensions and revocations, which will in turn result in an increase in driver's license reinstatement fees.

Section 577.505 applies to persons over the age of 21 who are convicted of drug possession. These persons' driving privileges are also revoked. This section is amended to also revoke the driving privileges of any person who is convicted of or pleads guilty to any offense involving the unlawful possession or use of drug paraphernalia. This should result in an increase in reinstatement fees, which will have a positive fiscal impact to MoDOT.

Even with the increase in suspensions and revocations for drug paraphernalia charges, there may still be an overall decrease in suspensions and revocations with the change to discretionary suspensions for MIPs – which would actually result in a negative fiscal impact to MoDOT. Any impact is unknown, but believed to be less than \$100,000, and speculative at this point.

Officials from the **Department of Revenue (DOR)** assume Section 311.325 would add non-intoxicating beer to Minor in Possession (MIP) offenses used by DOR for 577.500 Abuse and Lose License suspension actions for minors.

DOR officials assume Section 311.326 would simplify and restrict current expungement provisions for MIP offense to one year after the person attains the age of 21 years only.

DOR assumes Section 577.500.1(3) adds use or possession of drug paraphernalia to Abuse & Lose offenses for minors; 577.500.1(2) add possession or use of alcohol for a 2nd time; Section 577.505 adds use or possession of drug paraphernalia for use on adult Abuse & Lose actions.

ASSUMPTION (continued)

DOR assumes the proposed legislation increases the opportunity for civil license denial actions for persons who commit intoxication-related traffic offenses, and for driving under the influence of drugs as well.

DOR assumes the following fiscal impact to Office of Administration – Information Technology Services Division:

Modifications to the current programs will be required for processing due to this legislative proposal. Office of Administration Information Technology (ITSD DOR) estimates that this legislation could be implemented utilizing one existing CIT III for one month at a rate of \$4,441.00. ITSD DOR estimates the IT portion of this request can be accomplished within existing resources; however; if priorities shift, additional FTE/overtime would be needed to implement.

Section 479.260 – Municipal Court Costs

Officials from the **Office of State Courts Administrator (CTS)** assume Section 479.260, RSMo, would allow courts to charge costs in municipal cases where the charges are dismissed.

Section 575.150 – Resisting or Interfering with Arrest

Officials from the **Department of Corrections (DOC)** state Section 575.150 increases the penalty of resisting or interfering with a law enforcement officer making an arrest from a class D felony to a class C felony. Last fiscal year there were 58 offenders received under current statutes and it is expected that the department would receive approximately 34 new offenders due to this change. The average sentence was 3.6 years. Based on the releases these cases serve an average of 1.4 years or 17 months (39.3%) prior to first release. The average C felony sentence on a term admission is 5.2 years. If the offender serves the same percentage of the sentence they would serve two years prior to the first release.

DOC assumes this would increase the incarceration time by at least 7 seven months. When fully implemented this change could add approximately 34 more cases to the department and increase sentences. Therefore, it could impact the DOC in FY11 and FY12 by an unknown but greater than \$100,000 amount.

ASSUMPTION (continued)

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 of direct offender costs either through incarceration (FY08 average of \$15.64 per offender, per day or an annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender).

Section 595.030 – Crime Victims’ Compensation Fund

Officials from the **Department of Public Safety – Director’s Office (DPS)** assume the maximum per week wages allowed would increase from two hundred dollars to four hundred dollars per week, increasing the amount of lost wages paid per year.

Based on three years Lost Wages Claims:

FY 06	259 Claims	Total Paid – \$343,824
FY 07	245 Claims	Total Paid – \$311,033
FY 08	268 Claims	Total Paid – \$435,412

Current Paid:

257 Claims Average at \$1,407.23 average/claim (at \$200 max/week) = \$361,658.11

Future Paid:

257 Claims Average at \$2,214.46 average/claim (at \$400 max/week) = \$561,116.22

Fiscal Impact:

\$207,458.11

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

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Costs</u> – Increased appropriations to State School Moneys Fund (50.565)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Department of Corrections Incarceration/probation costs (various sections)	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ROAD FUND			
<u>Losses</u> – Department of Transportation Decreased driver license suspensions and revocations (311.325, 577.500, 577.505)	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON ROAD FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2010 (10 Mo.)	FY 2011	FY 2012
CRIME VICTIMS' COMPENSATION FUND			
<u>Costs</u> – Department of Public Safety Increased maximum allowances (595.030)	(\$207,458)	(\$207,458)	(\$207,458)
<u>Losses</u> – Department of Public Safety Loss of fine revenue (50.565)	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON CRIME VICTIMS' COMPENSATION FUND	<u>(More than \$207,458)</u>	<u>(More than \$207,458)</u>	<u>(More than \$207,458)</u>
STATE SCHOOL MONEYS FUND			
<u>Revenues</u> – appropriations from General Revenue Fund (50.565)	Less than \$100,000	Less than \$100,000	Less than \$100,000
<u>Costs</u> – Increased distributions to local school districts (50.565)	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – County Law Enforcement Restitution Fund			
Moving violation assessments (50.565)	Unknown	Unknown	Unknown
<u>Revenues</u> – Local School Districts			
Increased distributions from state school monies fund (50.565)	Less than \$100,000	Less than \$100,000	Less than \$100,000
<u>Losses</u> – Local School Districts			
Loss of fine revenue (50.565)	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
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.

FISCAL DESCRIPTION

The proposed legislation changes the laws regarding crime prevention. In its main provisions, the bill:

Section 50.565 – Adds any moving violation, as defined by Section 302.010, RSMo, to the list of infractions for which a court may order payment to the county law enforcement restitution fund.

DESCRIPTION (continued)

Section 217.670 – Allows offenders to appear before the Board of Probation and Parole by means of a video conference, rather than personal appearance, at the discretion of the board and allows any offender to refuse parole that is conditioned on the performance of free work. Any county, city, person, organization, agency, or its employee who is charged with the supervision of free work or who benefits from its performance will be immune from any cause of action arising from his or her supervision of performance, except for an intentional tort or gross negligence.

Sections 302.060, 311.310, 311.325, 311.326 – Revises provisions relating to intoxication-related offenses and minor in possession.

Sections 409.5-508, 409.6-064 – Specifies that any person convicted of criminal securities fraud will be fined an amount not to exceed \$1 million, be sentenced to a term of imprisonment not to exceed 10 years, or both. If the violation was committed against a disabled or elderly person, the offender will be fined an amount not to exceed \$50,000 and sentenced to a term of imprisonment not to exceed five years.

Section 479.260 – Allows a judge to order the defendant in a municipal or circuit criminal case to pay costs as determined in Section 488.012.

Section 565.081 – Adds probation and parole officers to the crime of assault of a law enforcement officer in the first degree.

Section 575.150 – Increases the penalty for the crime of resisting or interfering with arrest, detention, or stop from a class D felony to a class C felony.

Section 575.153 – Creates the crime of disarming a peace or correctional officer if a person intentionally removes from or deprives the peace or correctional officer of the use of his or her firearm or other deadly weapon while the officer is acting within the scope of his or her official duties. The crime, a class C felony, does not include situations in which the person does not know or could not reasonably have known that the person was a peace or correctional officer or if the officer was engaged in felonious conduct at the time of the disarmament.

Sections 577.500, 577.505 – Allows a court of competent jurisdiction to suspend or revoke the driving privileges of any person determined to have violated any state, county, or municipal law involving unlawful use or possession of drug paraphernalia while operating a motor vehicle.

Sections 578.255, 578.260 – Prohibits the use or possession of an alcohol beverage vaporizer.

DESCRIPTION (continued)

Section 595.030 – Increases the maximum per week wages to be paid from the Crime Victims' Compensation Fund from \$200 to \$400 per week.

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

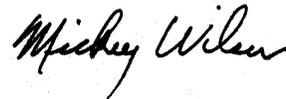
SOURCES OF INFORMATION

Office of the Attorney General
Office of the Governor
Office of Administration
 – Administrative Hearing Commission
Office of State Courts Administrator
Department of Transportation
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety
 – Director's Office
 – Missouri State Highway Patrol
Department of Conservation
Office of the Secretary of State
Office of the State Public Defender
Boone County Sheriff's Department
Springfield Police Department

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NOT RESPONDING

**Office of Prosecution Services
Greene County Sheriff's Department
Jackson County Sheriff's Department
St. Louis County Police Department
Columbia Police Department
Kansas City Police Department
St. Louis Metropolitan Police Department**



Mickey Wilson, CPA
Director
January 28, 2009