

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0564-01  
Bill No.: HB 69  
Subject: Corrections Department; Prisons and Jails  
Type: Original  
Date: January 15, 2013

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Bill Summary: This proposal specifies that gross negligence will be the standard of proof in actions for damages brought against a public or private correctional or detention facility as a result of a death by suicide or any inmate.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Legal Expense	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ 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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Local Government</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

RS:LR:OD

## FISCAL ANALYSIS

### ASSUMPTION

In response to a similar proposal from 2012 (HB 1272), officials from the **Office of Administration - Risk Management (COA)** stated that Missouri self-assumes its own liability protection under the State Legal Expense Fund in Section 105.711, RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General. COA assumes the proposal could result in a potential savings to the Legal Expense Fund.

Officials from the **Department of Social Services (DOS)** state the bill raises the standard of proof from negligence to gross negligence in tort actions brought against public or private jails, correctional centers, detention centers, juvenile detention centers, or any other type of correctional facility or their employees as a result of the death of a person who committed suicide during his or her detention.

DOS' Division of Youth Services anticipates no fiscal impact from this proposed legislation. Currently, the Division has high operational and training standards around suicide prevention within facilities.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal could be absorbed with existing resources.

Officials from the **Office of the State Courts Administrator** and the **Department of Mental Health** each assume the proposal would not fiscally impact their respective agencies.

In response to a similar proposal from 2012 (HB 1272), the **Department of Corrections** assumed the proposal would not create a fiscal impact to their agency.

Officials from **Cass, Boone, Clay, and Jefferson** counties did not respond to our request for fiscal impact.

**Oversight** assumes the proposal could result in a potential savings to the Legal Expense Fund and to county jails and have reflected the speculative impact as \$0 or Unknown.

FISCAL IMPACT - State Government

FY 2014  
(10 Mo.)

FY 2015

FY 2016

**LEGAL EXPENSE FUND**

Savings - Office of Administration

Potential savings to the fund from raising the standard of proof in actions for damages against correctional facilities as the result of death or suicide to gross negligence

\$0 or Unknown

\$0 or Unknown

\$0 or Unknown

**ESTIMATED NET EFFECT TO THE  
LEGAL EXPENSE FUND**

**\$0 or Unknown**

**\$0 or Unknown**

**\$0 or Unknown**

FISCAL IMPACT - Local Government

FY 2014  
(10 Mo.)

FY 2015

FY 2016

**LOCAL POLITICAL SUBDIVISIONS**

Savings - County jails

Potential savings to the fund from raising the standard of proof in actions for damages against correctional facilities as the result of death or suicide to gross negligence

\$0 or Unknown

\$0 or Unknown

\$0 or Unknown

**ESTIMATED NET EFFECT TO THE  
LOCAL POLITICAL SUBDIVISIONS**

**\$0 or  
Unknown**

**\$0 or  
Unknown**

**\$0 or  
Unknown**

FISCAL IMPACT - Small Business

Small business detention facilities would be given a higher level of protection in actions for damages for death by suicide as a result of this proposal.

RS:LR:OD

### FISCAL DESCRIPTION

This bill specifies that gross negligence will be the standard of proof in a court action brought against a public or private jail, correctional center, detention center, juvenile detention center, or any other type of correctional facility or its employees as a result of a death by suicide of any inmate.


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

Department of Corrections  
Attorney General's Office  
Office of Administration  
Department of Social Services  
Office of the State Courts Administrator  
Department of Mental Health

### **Not Responding:**

Cass, Boone, Clay, and Jefferson Counties



Ross Strobe  
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January 15, 2013