

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1938-07
Bill No.: SCS for HCS for HB 807
Subject: Animals and Agriculture; Attorney General; Civil Actions; Crimes and Punishment; Credit and Bankruptcy; Courts; Higher Education Dept; Judges; Law Enforcement Officers and Agencies; Banks and Financial Institutions; Credit Unions; Savings and Loans; Prisons and Jails; Marriage and Divorce; Estates, Wills and Trusts; Kansas City; Children and Minors; Sexual Offenses
Type: Original
Date: May 5, 2015

Bill Summary: This proposal modifies provisions relating to the administration of justice.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(Less than \$125,529)	(Could exceed \$193,631)	(Could exceed \$161,801)
Total Estimated Net Effect on General Revenue	(Less than \$125,529)	(Could exceed \$193,631)	(Could exceed \$161,801)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Crime Victim Compensation	(Could exceed \$170,085)	(Could exceed \$204,102)	(Could exceed \$204,102)
Justice Center Fund*	\$0	\$0	\$0
Conservation Commission	Unknown	Unknown	Unknown
Jasper Co. Judicial*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown to (Exceeding \$170,085)	Unknown to (Exceeding \$204,102)	Unknown to (Exceeding \$204,102)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 25 pages. *Distribution increase (decrease) net to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	Less than \$268,345	Less than \$278,345	Less than \$378,345

FISCAL ANALYSIS

ASSUMPTION

§105.716

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

In response to similar legislation this year, SCS for SB 109, officials from the **Office of Administration** assumed this proposed legislation requires legal counsel of public institutions which award baccalaureate degrees to obtain settlement authority from the Attorney General (AG) before entering into settlement negotiations for any claim to paid by the state legal expense fund. If the Attorney General refuses to approve a settlement offer then the AG may, at the request of a public institution, assume all responsibility of the investigation, defense, negotiation, and compromise of the claim.

Under current law, institutions have the incentive to settle claims that are paid by the legal expense fund to avoid legal defense costs that are born by the institution.

The amount of the potential savings resulting from this legislation cannot be reasonably estimated as there is no readily available information that could assist in forming a rational basis for estimating savings.

Officials at the **University of Missouri System** assume the revenue generated from the program would be collected by the Director of the MO Ag Experiment Station (AES). However, there is concern that the expenditure authority would move from the AES Director to the newly formed Fertilizer Control Board. The changes could influence how much of the revenue flows through university programs/activities and result in a negative fiscal impact to the University of Missouri.

Officials at the **State Technical College of Missouri** and the **University of Central Missouri** each assume no fiscal impact to their respective entities from this proposal.

In response to similar legislation this year, SCS for SB 109, officials from the **Department of Higher Education, Lincoln University** and **Missouri State University** each assumed the proposal will have no fiscal impact on their respective organizations.

Oversight assumes the Attorney General's Office would maintain a reasonable position regarding claim settlements therefore resulting in no fiscal impact to the State or colleges and universities.

ASSUMPTION (continued)

§§198.070, 565.225

Officials at the **Department of Corrections** assume §198.070 subsections 1 and 2 already contain penalties for a class A misdemeanor for not reporting in a timely manner. In addition, there is a class E felony charge for concealing a known abuse/neglect/sexual assault resulting in death. This language would not create any new penalties.

In response to similar legislation this year, SCS for SB Nos. 112, 212, 143, 234, officials from the **Department of Corrections (DOC)** stated this version of the bill combines previously filed bills. The bill re-classifies D and C felonies to E and D in order to align with the 2014 criminal code. It also incorporates the newly amended aggravated stalking provisions contained within SB 212. This fiscal note is similar to fiscal notes 0343-01 and 0255-01. The 0343-01 and 0255-01 responses apply:

FN 0343-01N SB 112 pertains to revisions to the criminal code - the bill contains the required amendment of the felony class of statutes not already amended in the 2014 criminal code that will be enacted in January 2017. The amendments are necessary because the increase in the number of felony classes in the 2014 criminal code required all felony D and C felonies in the old code to be re-classified as E or D. These changes will have no impact on the Department.

0255-01, SB212 - adds an element to the crime of aggravated or first degree stalking - this bill proposes to add a sixth element to the existing aggravated stalking statute. An individual accessing or attempting to access an address of a participant in the address confidentiality program and harasses or follows with the intent of harassing another person is guilty of aggravated stalking.

There were 35 new admissions for the class D felony of aggravated stalking in FY14. Twenty two were probation cases, three were 120 day admissions and ten served a term sentence averaging 24 months. There were no new admissions for the class C felony of aggravated stalking (previous) in FY14, to include term sentences or probation cases. Broadening the definition of this statute may lead to more convictions. The majority can still expect to receive probation for these violations.

The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class D. For a new class D felony it is assumed that 3 offenders per year would be sentenced for the offense, one to prison and 2 to probation. Probationers would serve an average of 3 years and an offender would serve an average of 12 months in prison and three years on parole. The impact for the class D felony is one additional offender in prison and nine on supervision. Full implementation of this legislation would occur in year 4.

ASSUMPTION (continued)

The FY14 average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender.

In summary, the DOC assumes an additional cost of \$9,176 in FY 2016 (1 in prison and 2 on probation), \$18,737 in FY 2017 (1 in prison and 5 on probation), and \$26,768 in FY 2018 (1 in prison and 8 on probation).

Oversight assumes the DOC could absorb these potential additional offenders within their current appropriation levels.

Officials at the **Department of Public Safety' Office of the Director**, the **Office of the State Public Defender**, the **Department of Agriculture**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Office of Prosecution Services**, the **Department of Mental Health** and the **Department of Revenue** each assume no fiscal impact to their respective agencies from this proposal.

In response to similar legislation this year, SCS for SB Nos. 112, 212, 143, 234, officials from the **Office of the State Courts Administrator**, the **Department of Public Safety (Missouri Highway Patrol and Capitol Police)**, **Missouri Department of Conservation** and the **Department of Health and Senior Services** each assumed the proposal would not fiscally impact their respective agencies.

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

In response to similar legislation this year, SCS for SB Nos. 112, 212, 143, 234, officials from the **Office of the Secretary of State (SOS)**, consider many bills by the General Assembly including 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 fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

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

§217.360 - Two-way telecommunication devices to items not allowed in jails or prisons
Officials at the **Department of Corrections (DOC)** assume no fiscal impact from this proposal.

§221.111 - Delivery or concealment on premises of prohibited articles
In response to a previous version, officials at the **Department of Corrections** assumed no fiscal impact from this proposal.

§§272.030, 272.230

Officials at the **Department of Agriculture** and the **Department of Corrections** each assume no fiscal impact to their respective agencies from this proposal.

In response to similar legislation this year, HB 372, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

§311.310

Officials at the **Office of Prosecution Services** assume no fiscal impact from this proposal.

In response to similar legislation this year, HCS for HB 180, officials from the **Department of Public Safety (Missouri Highway Patrol and Alcohol and Tobacco Control)** and the **Office of the State Courts Administrator** each assumed the proposal would not fiscally impact their respective agencies.

In response to similar legislation this year, HCS for HB 180, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with enhanced penalties for knowingly allowing a minor to drink or possess alcohol or failing to stop a minor from drinking or possessing alcohol. These offenses escalate from a B Misdemeanor to a D Felony.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

ASSUMPTION (continued)

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

In response to similar legislation this year, HCS for HB 180, officials from the **Department of Corrections (DOC)** stated the bill specifies the reclassification of existing penalties and creates a new penalty for supplying or facilitating the supply of alcohol to a person under the age of twenty-one. First and second offenses are reclassified from misdemeanors to felonies. The bill also creates a new class B felony if the offense is associated with an intoxicated minor who injures or kills another person while intoxicated.

The DOC does not currently supervise the commission of these offenses as misdemeanors and therefore does not have record of anyone sentenced under this section of legislation. However, as the bill proposes the reclassification of misdemeanor to felony offenses and introduces a new felony offense, it is possible that the passage of this bill could impact the Department of Corrections.

Through consultation with the Office of State Courts Administrator, it was determined that during fiscal year 2014 there were no charges of 33033 (currently a class A misdemeanor) that were disposed with a guilty outcome, but there were 17 charges of 33037 (currently a class B misdemeanor) that were disposed with a guilty outcome. The charge code of 33037 is associated with a first offense, which is a class B misdemeanor under current legislation. This bill proposes to change the classification of this first offense to a class D felony.

The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class D Felony. Based upon historical data, we assume that approximately 4 offenders would be sentenced to incarceration under this new legislation; as well as 12 offenders in FY16, 29 offenders in FY17, and 46 offenders in FY18 and beyond would be sentenced to supervision. The average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender.

Additional penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class B Felony. Based upon historical data, DOC assumes that approximately .53 offenders in FY16, 1.06 offenders in FY17, 1.06 offenders in FY18 and beyond would be sentenced to incarceration under this new legislation; as well as, .47 offenders in FY16, .94 offenders in FY17, 1.94 offenders in FY18, 2.94 offenders in FY19, and 3.94 offenders in FY20 and beyond would be sentenced to supervision.

ASSUMPTION (continued)

In summary, DOC assumes costs from the proposal would be \$48,537 in year one, \$106,421 in year two, \$154,487 in year three, and \$166,147 at full implementation of the legislation in year 5.

Oversight will reflect the potential cost to the Department of Corrections as "Less than \$100,000" in FY 2016, and "Could exceed \$100,000" in the following years.

§452.315 - Authorized motions

Officials at the **Department of Corrections** assume no fiscal impact from this proposal.

§452.317 - Termination of insurance during marriage dissolution

Officials at the **Department of Corrections** assume no fiscal impact from this proposal.

§456.950 - Claims of creditors on spousal trusts following marriage dissolution

Officials at the **Department of Corrections** assume no fiscal impact from this proposal.

§456.1-113 - Transfer of assets to a trust

Officials at the **Department of Corrections** assume no fiscal impact from this proposal.

§473.663

In response to similar legislation this year, SCS for SB 340, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

§478.463 - Moving the 12th Division of the 16th Judicial Circuit from Kansas City to the City of Independence

Officials at the **Department of Corrections** assume no fiscal impact from this proposal.

In response to a previous version, officials at **Office of the State Courts Administrator** assumed this section of the proposed legislation moves the 12th Division of the 16th Judicial Circuit Court from the city of Kansas City to the city of Independence. There may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

ASSUMPTION (continued)

§488.2206

In response to similar legislation from 2014, TAFP SCS for HB 1238, officials at the **Office of the State Courts Administrator** assumed the proposed legislation provides that a surcharge may be collected in criminal proceedings filed in the Thirty-First Judicial Circuit (Greene County). During the past five years (2009 to 2013) there was an average of 7,750 cases with guilty outcomes for all criminal cases including violations of any county or municipal ordinance or any violation of a criminal or traffic law. In addition, the Fine Collection Center (FCC) has received a five year average of 3,425 violations disposed by guilty plea. Based on the surcharge of up to \$10 and an average collection rate of 80%, the projected annual increase would be \$89,400. We currently have no way to determine how many guilty outcomes or paid guilty outcomes would occur. The surcharge increase would be an increase of \$89,400 to unknown.

§§488.2244, 488.2257

In response to similar legislation this year, SCS for HB 799, officials from the **Office of the State Courts Administrator (OSCA)** assumed §488.2244 of the proposal provides Jasper County shall collect a surcharge of ten dollars for civil cases filed, twenty-five dollars for misdemeanor cases filed and fifty dollars for felony criminal cases filed.

Based on FY 2014 there were 501 filed civil cases, 3,226 filed associate civil – small claims, 1,515 probate and simple probate cases, 1,331 filed misdemeanor criminal cases and 865 filed felony criminal cases. We anticipate the surcharge would be approximately \$5,010 filed civil cases ($501(\$10)=\$5,010$), \$32,260 filed associate civil – small claims ($3,226(\$10)=\$32,260$); \$15,150 probate and simple probate cases ($1,515(\$10)=\$15,150$), \$33,275 filed misdemeanor criminal cases ($1,331(\$25)=\$33,275$) and \$43,250 felony criminal cases ($865(\$50)=\$43,250$).

§488.2257 provides that Howell County shall collect a ten dollar surcharge in criminal cases to be used for a criminal justice center. Based on the average data from FY 2010 through FY 2014, there were approximately 3,949 filed guilty pleas. We anticipate the surcharge would be approximately \$39,490 in any given year.

Oversight assumes the surcharges from both sections are being paid by the defendant and will therefore have no fiscal impact to the state from this legislation.

In response to a previous version of this proposal, officials at **Howell County** assumed a projected income of \$60,000 with no or nominal expense to the county.

ASSUMPTION (continued)

Oversight assumes that once §488.2257 has passed, collection of the additional court costs can take place immediately. An action by the governing authorities in Howell County will need to approve a plan for the justice center and then begin the process of construction. Oversight assumes there will be several years of collection of the additional court costs that will take place before the expenditures will start to show for the justice center. Therefore, Oversight will reflect a \$0 cost for Howell County since the expenditures will be outside of this fiscal note period. Once the expenditures take place, the distribution of income and cost should net to zero.

Officials at the City of West Plains did not respond to **Oversight's** request for fiscal impact.

In response to similar legislation this year, SCS for HB 799, officials at the **Office of the State Treasurer** assumed no fiscal impact from this proposal.

Officials at the following counties: Bollinger, Cape Girardeau, Christian, Cole, Jasper, Maries, Montgomery, New Madrid, Ozark, Perry, Pulaski, St. Francois and Wayne did not respond to **Oversight's** request for fiscal impact.

§513.430 - Property exempt from attachment

Officials at the **Department of Corrections** assume no fiscal impact from this proposal.

§516.105

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

Officials at the **Department of Insurance, Financial Institutions and Professional Registration** and the **Department of Mental Health** each assume no fiscal impact to their respective agencies from this proposal.

In response to similar legislation this year, HB 108, officials from the **Office of State Courts Administrator** assumed the proposal would not fiscally impact their agency.

§541.033

Officials at the **Office of Prosecution Services** assume no fiscal impact from this proposal.

ASSUMPTION (continued)

In response to similar legislation this year, SB 561, officials at the **Office of the State Public Defender**, the **Office of the State Courts Administrator** and the **Department of Corrections** each assumed no fiscal impact to their respective agencies from this proposal.

§§566.210, 566.211, 566.212, 566.213 - Offense of child sex trafficking

Officials at the **Department of Corrections** state the result from this proposal is an increase of 1 additional offender incarcerated per year totaling 5 offenders incarcerated by year 5 and 1 additional offender under supervision per year until year 5. Offenders will be incarcerated with a 6 year sentence.

§§570.010, 570.030 - Offense of theft when property is owned by a financial institution

Officials at the **Department of Corrections** state the result from this proposal is an increase of 0 offenders in the first year, 5 offenders in the second year and 6 offenders in the third year and beyond. For field supervision of offenders, the result is 9 offenders in the first year, 18 offenders in the second year and 38 offenders in the third year and beyond. The FY 14 average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The Department cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender.

The combined impact for HB 276 and HB 152 is as follows:

Summary for §§566.210, 566.211, 566.212, 566.213, 570.010, 570.030

In summary, the number of incarcerations for this proposal each year would be as follows:

FY 2016 = 1

FY 2017 = 7

FY 2018 = 9

The number of field supervision for this proposal each year would be as follows:

FY 2016 = 10

FY 2017 = 20

FY 2018 = 41

The total cost for DOC for this proposal each year would be as follows:

FY 2016 = \$25,529

FY 2017 = \$93,631

FY 2018 = \$161,801

ASSUMPTION (continued)

§§577.010, 577.012

Officials at the **Department of Corrections** assume no new offenses are created and no fiscal impact anticipated as the cost of this monitoring may be passed on to the offender.

§§578.005, 578.007, 578.040

In response to similar legislation this year, HCS for HB 258, officials from the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent clients are faced with the enhanced penalties for repeated offenses of animal or livestock trespassing or the new offense of tampering with farm equipment, a new Class A misdemeanor, or a new Class D felony depending on the pecuniary loss.

SPD assumes while the number of new cases may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

In response to similar legislation from 2015 (HB 1129), officials from the **Office of Prosecution Services (OPS)** assumed the proposal would not have a measurable fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs which are difficult to determine.

Oversight assumes the OPS and county prosecutors can absorb the additional caseload that may result from this proposal.

In response to similar legislation this year, HCS for HB 258, officials from the **Department of Corrections (DOC)** stated this bill proposes the creation of the crime of tampering with farm equipment. The penalty associated with this crime is a class A misdemeanor if it does not lead to pecuniary loss in excess of one thousand dollars.

The Department of Corrections does not administer corrections for this offense. If the offense leads to pecuniary loss in excess of one thousand dollars, the penalty associated with the crime is a class D felony.

ASSUMPTION (continued)

This is a new felony offense for which DOC would be responsible for administering corrections in the cases in which there were convictions. Because it is a new offense, there is no historical data upon which to base estimates of future impact.

Current records show 30% of class D felonies are sentenced to prison and 70% are sentenced to probation and assigned to field supervision. The average sentence for a class D felony is 3.5 years. Offenders serving prison sentences for class D felonies spend on average 0.8 years in prison and serve the remainder of their sentences, 2.7 years, under field supervision. Offenders sentenced to probation for a class D felony serve on average three years under supervision.

DOC assumes there will be one new admission to prison and 2 new probation assignments per year following the implementation of the law. It is also assumed that persons sentenced to prison will serve one year in prison and three years under supervision following release from prison; and, persons sentenced to probation will serve three years under supervision following sentencing.

The FY14 average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender.

In summary, DOC assumes one additional person will be incarcerated and nine additional persons would be supervised by the department. The annual cost, estimated by DOC, would be \$9,176 in FY 2016, \$16,235 in FY 2017, and \$21,664 in FY 2018.

Oversight assumes the DOC could absorb the additional costs incarcerating and supervising these few additional persons.

Officials at the **Department of Agriculture** assume no fiscal impact from this proposal.

In response to similar legislation this year, HCS for HB 258, officials from the **Department of Public Safety - Missouri State Highway Patrol**, and the **Office of State Courts Administrator** each assumed the proposal would not fiscally impact their respective agencies.

ASSUMPTION (continued)

§595.030

In response to similar legislation this year, HCS for HB 209, officials from the **Office of Administration - Budget and Planning (B&P)** stated the legislation will raise the maximum amount per week from \$200 to \$400 that a crime victim is able to claim in lost wages from the Crime Victims' Compensation Fund.

Based on estimates provided to Budget and Planning by the Department of Public Safety (DPS) Crime Victims Program, the DPS anticipates a \$100,000 increase in wage loss payouts per fiscal year.

According to the Crime Victims' Compensation Program statistics available on the Missouri Department of Public Safety's website, the average wage loss compensation for the last three fiscal years is \$204,000. Since this legislation could potentially double that payout, B&P estimates that \$204,000 is the high-end estimate of the annual increase in wage loss compensation.

The language added in the HCS requires a victim's next of kin to designate a funeral home as a claimant. At this time, qualifying funeral expenses are reimbursed up to \$5,000. B&P anticipates that adding funeral homes to the definition of claimant may increase the pool of applicants to the Crime Victims' Compensation Program due to increased awareness; however, it is anticipated that this increase will be negligible since funeral expenses are already reimbursable. Therefore, no additional costs were figured into the fiscal note response for the HCS.

Based on the information above, B&P estimates that the Crime Victims' Compensation Fund will have an increase in payouts ranging between \$100,000 and \$204,000 annually upon implementation of this legislation.

In response to similar legislation this year, HCS for HB 209, officials from the **Department of Public Safety - Office of the Director (DPS)** assumed the proposal would not fiscally impact their agency. DPS states that by increasing the reimbursement level for lost wages from \$5.00 per hour to \$10.00 per hour, there will not be a negative impact on the fund because there is already a cap in place of \$25,000 per crime victim. The increase in lost wages does not increase the cap, and therefore, does not negatively affect the fund.

ASSUMPTION (continued)

Oversight assumes this proposal would double the amount of reimbursement from the Crime Victims' Compensation Fund for lost wages from up to \$200 per week to up to \$400 per week. Oversight also assumes not all recipients already receive the \$25,000 cap. According to DPS' web site, over the past three years the following amounts were paid through the Crime Victims' Compensation Program for wages:

FY 2012	\$212,555
FY 2013	\$189,738
FY 2014	\$210,015

Therefore, Oversight will take an average of these three years (\$204,102) and assume DPS could double the amount paid from the Crime Victims' Compensation Fund (0681). Oversight will reflect 10 months of impact in FY '16.

The balance of the Crime Victims' Compensation Fund (0681) at March 31, 2015 was \$9,490,559.

In response to a similar proposal from this year, HCS for HB 209, officials from the **Department of Public Safety** assumed this change could result in additional costs to the program, but would be absorbable under current appropriations.

Current statute states that the medical expenses per eligible claim, for psychiatric, psychological or counseling expenses resulting from the crime committed, cannot exceed \$2,500. In addition, there is a maximum limit of \$25,000 total costs paid out per eligible claim.

This proposal adds a medical service provider to the list of approved costs for reimbursement, but does not change the per person maximum payout.

Oversight assumes this will affect the Crime Victims' Compensation Fund by an unknown amount. Therefore, Oversight will reflect a fiscal impact that "could exceed" that calculated for the underlying bill.

§§600.042, 600.090, 600.101

In response to similar legislation this year, SCS for SB 91, officials from the **Office of the State Public Defender (SPD)** stated this bill postpones the required implementation date for public defender district offices to realign themselves concurrently with judicial circuits until after the

ASSUMPTION (continued)

2020 realignment of judicial circuits authorized under Section 478.073, avoiding the likelihood that SPD would realign its offices to match existing judicial circuits by 2018 only to have to re-do those efforts two years later.

The SPD has 33 trial district offices serving 45 judicial circuits and 115 counties. By statute, office space for these district offices is provided and paid for by the counties served by that district office, each county paying a proportion of the total rent and utilities according to comparative population. Each time the geographic boundaries of a defender office's area of service are changed, the leases which the counties have signed and the respective payment obligations of all the counties involved, are also impacted. Because of the significant complications involved in realignment of offices, avoiding the necessity of back to back realignments makes fiscal and operational sense.

As stated by the SPD above, without this bill several office realignments may need to occur in 2018, which is shortly before the 2020 realignment of judicial circuits occurs (as authorized under Section 478.073). Therefore, **Oversight** concurs that this proposal may, in effect, save money for the state's SPD as well as the counties who help support them. It is not possible to measure the amount of potential savings to the state and counties until the details of the 2020 realignment are available.

For example, as part of the report submitted to fulfill requirements of Section 600.042, the SPD stated that currently there is a PD District office in Callaway County (Fulton). Callaway County is currently part of the 13th Judicial Circuit along with Boone County. A PD District Office already exists in Columbia, so the office in Fulton will need to move to another location within the 12th Judicial Circuit (currently Audrain, Montgomery and Warren Counties). However, the 2020 realignment may possibly move Callaway County out of the 13th Judicial Circuit and into the 12th Judicial Circuit, which could allow the PD District Office to be moved back to Fulton.

At the very least, this bill will delay the expense of implementing the SPD office realignments from 2018 to 2021.

For purposes of this fiscal note, **Oversight** will reflect a savings of More than \$100,000 in FY 2018 to the state as well as local political subdivisions, as the SPD realignment will be delayed until after the 2020 realignment of judicial circuits. In some cases, the costs may simply be delayed until 2020; however, in some cases, a cost avoidance (of moving twice in three years) may occur.

ASSUMPTION (continued)

The **SPD** states that eliminating the biennial sweep of the Legal Defense and Defender Fund will assist the Public Defender System with budgeting of expenditures from the fund. A large percentage of the monies collected from prior public defender clients, is during the tax intercept season, March, April and May. This affords very little time to budget and expend the monies collected. Eliminating the sweep would allow constant fiscal year spending rather than a flurry at the end of every two years. The SPD states the biennial sweep of this fund occurs on odd number fiscal years (FY 2015).

Oversight notes that according to Office of the State Treasurer (STO) reports, the balance of Legal Defense and Defender Fund (0670) as of March 31, 2015 was \$808,186. The STO also noted that this fund has not had monies swept into the General Revenue Fund recently. Therefore, Oversight will assume the proposed changes regarding this fund would not have a fiscal impact on this fund or the General Revenue Fund.

Officials at the **Office of Administration's Division of Accounting** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

In response to similar legislation this year, SCS for HB 799, officials from the **Office of the State Courts Administrator** assumed the proposal would not fiscally impact their agency.

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

Bill as a whole

Officials at the **Department of Conservation** assume an unknown fiscal impact on their agency.

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

Officials at the **Department of Agriculture**, the **Office of Prosecution Services**, the **Department of Revenue**, the **Department of Public Safety's Missouri Highway Patrol** and the **Department of Insurance, Financial Institutions and Professional Registration** each assume no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

In response to a previous version, officials at the **Office of the State Treasurer** and the **Department of Health and Senior Services** each assumed no fiscal impact to their respective agencies from this proposal.

Officials at the **Platte County Board of Election Commission**, the **City of Columbia**, the **St. Louis County Board of Election Commission**, the **City of Kansas City**, the **Springfield Police Department** and the **Boone County Sheriff's Department** each assume no fiscal impact to their respective entities from this proposal.

In response to a previous version, officials at the **Cole County Sheriff's Department** assumed no fiscal impact from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE			
<u>Costs</u> - DOC - Incarceration / Supervision of convicted offenders (§311.310)	(Less than \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
<u>Cost Avoidance and/or Cost Delaying</u> - SPD - delaying the realignment of SPD offices until after the judicial circuit realignment (§§600.042, 600.090, 600.101)	\$0	\$0	More than \$100,000
<u>Cost</u> - DOC - increase in incarcerations and field supervision of offenders (§§566.210, 566.211, 566.212, 566.213, 570.010, 570.030)	<u>(\$25,529)</u>	<u>(\$93,631)</u>	<u>(\$161,801)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	(Less than <u>\$125,529</u>)	(Could exceed <u>\$193,631</u>)	(Could exceed <u>\$161,801</u>)
CRIME VICTIMS COMPENSATION			
<u>Cost</u> - DPS - increasing the maximum amount that could be paid for wages from \$200 per week to \$400 per week and allowing psychiatric treatment from Board certified psychiatric-mental health clinical nurse specialist or board certified psychiatric-mental health nurse practitioner (§595.030)	(Could exceed <u>\$170,085</u>)	(Could exceed <u>\$204,102</u>)	(Could exceed <u>\$204,102</u>)
ESTIMATED NET EFFECT TO THE CRIME VICTIMS COMPENSATION FUND	(Could exceed <u>\$170,085</u>)	(Could exceed <u>\$204,102</u>)	(Could exceed <u>\$204,102</u>)

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2016 (10 Mo.)	FY 2017	FY 2018
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JUSTICE CENTER FUND

<u>Revenue</u> - \$10 surcharge on cases in the 31 st Judicial Circuit (§488.2206)	Could exceed \$89,400	Could exceed \$89,400	Could exceed \$89,400
<u>Transfers Out</u> - to Greene County (§488.2206)	(Could exceed <u>\$89,400</u>)	(Could exceed <u>\$89,400</u>)	(Could exceed <u>\$89,400</u>)

ESTIMATED NET EFFECT ON JUSTICE CENTER FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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CONSERVATION COMMISSION

<u>Revenue</u> - Department of Conservation	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT ON THE CONSERVATION COMMISSION	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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JASPER COUNTY JUDICIAL FUND

<u>Revenue</u> - \$10 surcharge on cases in the 29 th Judicial Circuit (§488.2244)	Up to \$128,945	Up to \$128,945	Up to \$128,945
<u>Transfers Out</u> - to Jasper County (§488.2244)	(Up to <u>\$128,945</u>)	(Up to <u>\$128,945</u>)	(Up to <u>\$128,945</u>)

ESTIMATED NET EFFECT TO THE JASPER COUNTY JUDICIAL FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue - Jasper County (\$488.2244)</u>	Up to \$128,945	Up to \$128,945	Up to \$128,945
<u>Revenue - Howell County - (\$488.2257)</u> surcharge for criminal justice center	Less than \$50,000	Less than \$60,000	Less than \$60,000
<u>Revenue - University of Missouri System</u> - (\$105.716)	(Unknown)	(Unknown)	(Unknown)
<u>Cost Avoidance and/or Cost Delaying -</u> SPD - delaying the realignment of SPD offices until after the judicial circuit realignment (§§600.042, 600.090, 600.101)	\$0	\$0	More than \$100,000
<u>Revenue - Greene County (\$488.2206)</u>	Could exceed <u>\$89,400</u>	Could exceed <u>\$89,400</u>	Could exceed <u>\$89,400</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	Less than <u>\$268,345</u>	Less than <u>\$278,345</u>	Less than <u>\$378,345</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill changes the laws regarding court proceedings.

QUALIFIED SPOUSAL TRUSTS

The bill specifies that a qualified spousal trust can include without limitation a discretionary power to distribute trust property to a person in addition to a settlor. All property at any time held in a qualified spousal trust, without regard to how the property was titled prior to it being so held, must have the same immunity from the claims of a separate creditor of either

FISCAL DESCRIPTION (continued)

settler as if the property were held outside the trust by the settlors as tenants by the entirety, unless otherwise provided in writing by the settlor or settlors who transferred the property to the trust, and the property must be treated for that purpose, including without limitation, federal and state bankruptcy laws, as tenants by entirety property. Property held in a qualified spousal trust must cease to receive immunity from the claims of creditors upon dissolution of marriage of the settlors by the court.

The respective rights of settlors who are married to each other in any property for purposes of a dissolution of the settlers' marriage must not be affected or changed by reason the transfer of that property to, or its subsequent administration as an asset of, a qualified spousal trust during the marriage of the settlers unless both settlors expressly agree otherwise in writing. A transfer to a qualified spousal trust cannot avoid or defeat the Missouri Uniform Fraudulent Transfer Act and any transfer of an asset to a trustee of a trust, to the trust itself, or to a share of the trust, in a manner that is reasonably calculated to identify the trust or that share of the trust, subjects that asset to the terms of the trust or that share.

JUDICIAL CIRCUITS

The bill moves the seat of Division 12 of the 16th Judicial Circuit from Kansas City to Independence.

INSURANCE

The bill allows an insurance policyholder to petition the court for reimbursement of insurance costs as they occur during the pendency of a dissolution of marriage or legal separation and allows as part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit either party to request the court to issue an order after a notice and hearing which reallocates or reapportions any or all insurance costs incurred during divorce or legal separation proceedings. The bill exempts from attachment and execution up to \$15,000 of any matured life insurance proceeds to pay for actual funeral, cremation, or burial expenses for a deceased spouse, child, or parent of the beneficiary.

CRIMINAL OFFENSES

The bill adds the delivery or attempted delivery of a two-way communications device or its component parts to the list of items prohibited into a correctional facility with specified exceptions and makes the offense a class D felony until December 31, 2016, and a class E felony after January 1, 2017. The bill specifies that a person commits the offense of sexual trafficking of a child if he or she knowingly advertises a commercial sex act, sexual performance, or the production of sexually explicit material involving a child and makes the offense a felony punishable by 10 years to life imprisonment if the child is 12 years old or older and life

FISCAL DESCRIPTION (continued)

imprisonment if the child is less than 12 years old. The bill specifies that the physical theft or attempted physical theft of property owned by or in the custody of a financial institution in order to deprive the owner or custodian of the property is a class B felony.

§§488.2244, 488.2257

This proposal creates in the state treasury the "Jasper County Judicial Fund". The moneys shall be used to pay for the costs associated with the purchase, lease, and operation of a county juvenile center and county judicial facility.

This proposal also provides that the court shall, upon adoption of an ordinance, assess a surcharge of up to ten dollars for civil and criminal cases filed in Howell County. The surcharge shall not be assessed when the case has been dismissed or if the court costs are to be paid by the state, county, or municipality. The money collected shall be used by the county to pay for the land assemblage and purchase, construction, maintenance, and upkeep of a county justice center.

Finally, this proposal also provides a surcharge of one dollar to be assessed as costs in each court proceeding filed in any court in the state located in a regional juvenile detention district.

§595.030

Under current law, the Crime Victims' Compensation fund can pay eligible victims up to \$200 per week for the loss of employment and for injury or death.

This proposal raises that amount to \$400 per week.

This proposal authorizes board certified psychiatric-mental health clinical nurse specialists and board certified psychiatric-mental health clinical nurse practitioners to be eligible for reimbursement by crime victim compensation when providing crisis counseling.

The proposal also allows the victim's family or next of kin to sign a notarized statement designating the funeral home as a claimant eligible for compensation from the fund.

§§600.042, 600.090, 600.101

Current law allows the director of the Missouri State Public Defender System to delegate the legal representation of any person to any licensed attorney. This act specifies that the director can delegate the legal representation of people who are eligible for representation by the Public Defender System.

FISCAL DESCRIPTION (continued)

In addition, current law allows unexpended funds of up to \$150,000 to remain in the Legal Defense and Defender Fund at the end of the fiscal year. This act removes the cap, so all unexpended money remains in the fund.

Under current law, the director of the State Public Defender System must implement a plan to establish district offices that align with judicial circuit boundaries by December 31, 2018. This proposal extends the date of implementation to December 31, 2021.

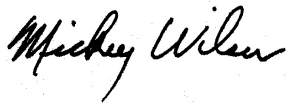
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Office of the State Courts Administrator
Office of the Attorney General
Department of Agriculture
Department of Revenue
Department of Insurance, Financial Institutions and Professional Registration
Department of Public Safety
 Missouri Highway Patrol
 Office of the Director
 Capitol Police
 Alcohol and Tobacco Commission
Office of Prosecution Services
Boone County Sheriff's Department
City of Kansas City
Cole County Sheriff's Department
Springfield Police Department
Office of Administration
 Budget and Planning
 Division of Accounting

SOURCES OF INFORMATION (continued)

University of Missouri System
State Technical College of Missouri
University of Central Missouri
Department of Higher Education
Lincoln University
Missouri State University
Office of the State Public Defender
Department of Mental Health
Department of Conservation
Department of Health and Senior Services
Office of the Secretary of State
Office of the State Treasurer
Platte County Board of Election Commission
City of Columbia
St. Louis County Board of Election Commission



Mickey Wilson, CPA
Director
May 5, 2015

Ross Strobe
Assistant Director
May 5, 2015