

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5083-01
Bill No.: HB 2191
Subject: Crimes and Punishment; Domestic Relations; Family Law
Type: Original
Date: March 7, 2016

Bill Summary: This proposal changes the laws regarding arrearage and the expungement of certain records related to criminal nonsupport.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Criminal Records	(\$90,025)	(\$109,131)	(\$110,240)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$90,025)	(\$109,131)	(\$110,240)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Criminal Records	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

☒ 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 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

In response to similar legislation from 2015, HB 178, officials at the **Department of Public Safety's Missouri Highway Patrol (DPS/MHP)** assumed in the Criminal Justice Information Services Division (CJIS) there are currently 12,689 felony arrests with corresponding court actions for felony nonsupport in the Central Repository that would qualify for expungement under this provision. There are an additional 17,462 felony arrests with corresponding court actions that would become eligible over the next eight years, which averages 2,182 per year. The current expungement process, pursuant to Chapter 610, takes approximately 90 minutes to process. One FTE can handle 1,237 expungements per year. Conservatively, at least two FTE's would be required to initially handle the expungements created by this legislation. Clearly, if a large number of these expungements were to be granted with even two FTE's, the backlog would compound greatly to the point it may take several years to catch up.

1 FTE = 1,856 hours (average work hours per year) x 60 minutes per hour = 111,360 minutes per year. The current average time per petition to log, process, research, review, create related correspondences, and to expunge the information when the order is received is 90 minutes. Therefore, one FTE can handle 1,237 expungements per year = $111,360 / 90$. These FTE's (CJIS Technicians) would be necessary to process all expungement requests, review criminal history records, contact any agency associated with the arrests or convictions, and collect the necessary data for the court orders.

Based on the average yearly salary and benefit rate per FTE at \$53,365 and the ability of that employee to process 1,237 expungements per year, the cost alone per expungement is $\$53,365 / 1,237 = \43.14 . It is suggested that a fee, similar to the criminal history background check fee, be implemented for the cost of researching and reviewing the criminal histories, as well as contacting of the various agencies associated with the arrests. In researching other states with similar expungement requirements, they all charge a fee to offset the cost of the time required to process the expungements. Their fees ranged from \$50 to \$450 per petition per arrest date.

ASSUMPTION (continued)

These FTE will most likely be 2nd and 3rd shift employees so they would not require any equipment. However, there would be recurring costs of \$650 per year per FTE for office supplies and phone charges. If any FTE were placed on the 1st shift, standard equipment would be required at a one-time cost of \$3,566 per FTE.

In response to similar legislation from 2015, HB 178, officials at the **Office of the State Courts Administrator** assumed the proposed legislation changes the laws regarding arrearages and the expungement of certain records related to criminal nonsupport. During the past five years there has been an average of 5,234 criminal nonsupport convictions. This legislation should not have a significant impact on the judiciary.

Fiscal Year	Number of Guilty Outcomes
2008	4,919
2009	5,133
2010	4,947
2011	4,276
2012	6,894
Total	26,169
Average	5,234

Officials at the **Callaway County Commission** assume an unknown negative fiscal impact from this proposal as it will depend on how many inmates are sent to jail.

In response to similar legislation from 2015, HB 178, officials at the **Office of the Attorney General** assumed that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the the **Office of the State Public Defender** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

In response to similar legislation from 2015, HB 178, officials at the **Department of Mental Health**, the **Department of Social Services** and the **Department of Corrections** each assumed no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

Officials at the **St. Louis County**, the **Cole County Sheriff's Department** and the **Springfield Police Department** each assume no fiscal impact to their respective organizations from this proposal.

In response to similar legislation from 2015, HB 178, officials at the **St. Louis County Police Department**, the **City of Kansas City**, the **Boone County Sheriff's Department**, the **City of Columbia**, the **Independence Police Department** and the **City of Jefferson** each assumed no fiscal impact to their respective entities from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
CRIMINAL RECORDS FUND			
<u>Costs - DPS/MHP</u>			
Personal Service	(\$47,560)	(\$57,643)	(\$58,219)
Fringe Benefits	(\$41,382)	(\$50,155)	(\$50,656)
Equipment and Expense	<u>(\$1,083)</u>	<u>(\$1,333)</u>	<u>(\$1,365)</u>
<u>Total Costs - DPS/MHP</u>	<u>(\$90,025)</u>	<u>(\$109,131)</u>	<u>(\$110,240)</u>
FTE Change - DPS/MHP	2 FTE	2 FTE	2 FTE
ESTIMATED NET EFFECT ON CRIMINAL RECORDS FUND	<u>(\$90,025)</u>	<u>(\$109,131)</u>	<u>(\$110,240)</u>
Estimated Net FTE Change for Criminal Records Fund	2 FTE	2 FTE	2 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</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 defines “arrearage” as the amount of money created by a failure to provide support to a child as required under an administrative or judicial support order or support to an estranged or former spouse if the judgment or order for spousal support also requires the payment of child support and the individual receiving the spousal support is the custodial parent. The arrearage must reflect any retroactive support ordered under a modification, any judgments entered by a court or any authorized agency, and any satisfactions of judgment filed by the custodial parent.

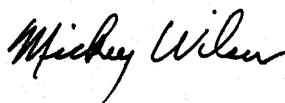
Currently, criminal nonsupport is a class D felony if the total arrearage is in excess of 12 monthly payments. The bill changes it to if the total arrearage is in excess of 24 monthly payments. A person may petition the court for the expungement of the criminal records of a first felony offense of criminal nonsupport. The expungement of a record is allowed only when at least eight years have elapsed since the person requesting expungement has completed his or her imprisonment or period of probation; the person has not been convicted of or been placed on probation for any felonies during the same period; is current on all child support obligations; has paid off all arrearages; has no other criminal charges or administrative child support actions pending at the time of the hearing on the application for expungement; and the person has successfully completed a criminal nonsupport courts program under Section 478.1000, RSMo. An individual may request an expungement of his or her DNA records pursuant to these provisions.

If a court grants the order of expungement, the records and files maintained in any court proceeding in an associate circuit or circuit court for the offense ordered expunged will be confidential and only available to the parties or by the order of the court for good cause shown. An individual is only entitled to have one petition for expungement granted under these provisions. The bill also changes these provisions in the newly revised criminal code that will take effect January 1, 2017.

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 Public Safety
Missouri Highway Patrol
Office of the State Courts Administrator
Office of the Attorney General
Department of Mental Health
Department of Social Services
Office of the State Public Defender
Office of Prosecution Services
Department of Corrections
St. Louis County Police Department
City of Kansas City
Boone County Sheriff's Department
City of Columbia
Independence Police Department
City of Jefferson
Springfield Police Department
Cole County Sheriff's Department
Callaway County Commission
St. Louis County



Mickey Wilson, CPA
Director
March 7, 2016

Ross Strobe
Assistant Director
March 7, 2016