

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5413-03
Bill No.: HB 2084
Subject: Crimes and Punishment; Criminal Procedure
Type: #Updated
Date: March 4, 2016
#Updated with Agency responses and Oversight assumptions.

Bill Summary: This proposal modifies provisions related to first degree murder.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
#General Revenue	(Could exceed \$292,559)	(Could exceed \$723,741)	(Could exceed \$737,767)
Total Estimated Net Effect on General Revenue	(Could exceed \$292,559)	(Could exceed \$723,741)	(Could exceed \$737,767)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 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
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 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

#Due to time constraints, **Oversight** originally prepared a fiscal note for this bill without all of the agency responses. Oversight has since obtained the agency responses and upon review of those responses, believes the original fiscal note should be updated. Therefore, this fiscal note updates the original by providing agency responses.

#Officials at the **Office of the State Public Defender (MSPD)** assume there are 84 juveniles currently serving life without parole. This legislation appears to give them a new hearing if their case isn't final for purposes of appeal. Also going forward, there are approximately 10 juvenile murder cases per year. The 84 cases involving juveniles serving life without parole will be resolved over a 3 year time period at 28 cases per year. The 10 juvenile murder cases will be on-going. MSPD estimates each case will cost \$5,000 to contract out. Each case will require expert witness testimony that will cost approximately \$15,000 per case.

#In summary, the MSPD assumes 28 cases that will be a one time contract cost of \$5,000 each totaling \$140,000 per year. FY 17 would be for 10 months or \$116,667. Each year thereafter would be adjusted for inflation at 2.5% resulting in cost of \$143,500 for FY 18 and \$147,088 for FY 19. MSPD also assumes 28 cases that will be a one time ligation cost of \$15,000 each totaling \$420,000 per year. FY 17 would be for 10 months or \$350,000. Each year thereafter would be adjusted for inflation resulting in cost of \$430,500 in FY 18 and \$441,263 in FY 19. Lastly, there would be 10 on going litigation cases each year at \$15,000 each. FY 17 would be for 10 months or \$125,000. FY 18 would have a cost of \$153,750 and FY 19 would have a cost of \$157,594, each year being adjusted for inflation. This would result in a grand total of \$591,667 for FY 17, \$727,750 for FY 18 and \$745,945 for FY 19.

#**Oversight** assumes section 565.033.3 states "...may, within six months of the effective date of this section , file a motion with the sentencing court for a hearing to review the person's sentence for murder in the first degree". This proposal does have an emergency clause, however, this section of the proposal will not be effective until 6 months afterwards. Oversight assumes costs for FY 2017 at half of the yearly rate or \$295,834. Therefore, Oversight assumes FY 2017 total costs would be \$295,834.

#Officials at the **Department of Corrections (DOC)** assume the bill makes similar changes to other bills on Murder 1st degree for offenders who are under 18 at the time of the offense. The bill amends the life without parole condition to a minimum prison term of 40 years or thirty for offenders under 16 at the time of the offense. The bill also makes Murder 1st degree a dangerous felony, which would mean that the offender would be eligible in 558.019, RSMo, for parole after

ASSUMPTION (continued)

serving 26 years (85% of a life sentence to be computed as 30 years). However, the minimum prison terms of 40 or 30 years will take precedence. The bill allows for under 18 year old offenders already sentenced to petition the sentencing court to be re-sentenced under 565.033, RSMo. It is assumed that as the US Supreme Court has ruled that the sentencing offenders who were under 18 to life without parole is cruel and inhumane punishment the re-sentencing will occur.

#There are currently incarcerated 91 offenders convicted of Murder 1st degree who were less than 18 at the time of the offense, of whom 17 were under 16 at the time of the offense. There is one offender who will be eligible for release in FY17 and by the end of the 10 year budget forecast there will be 18 offenders eligible for release. Although the bill does not mandate a release after serving the minimum prison term, the Board of Probation and Parole does normally release dangerous felons after serving the 85% and it is projected that the offenders will be released after the minimum prison term is served.

#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 **Office of the State Courts Administrator**, the **Department of Mental Health**, the **Department of Social Services** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (6 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>#Costs - State Public Defender</u>			
One Time Litigation Costs	(\$175,000)	(\$430,500)	(\$441,263)
On Time Contract Counsel Costs	(\$58,334)	(\$143,500)	(\$147,088)
On-Going Litigation Costs	<u>(\$62,500)</u>	<u>(\$153,750)</u>	<u>(\$157,594)</u>
<u>Total Costs - State Public Defender</u>	<u>(\$295,834)</u>	<u>(\$727,750)</u>	<u>(\$745,945)</u>
<u>#Cost Avoidance - DOC - decrease in supervision of offenders on parole and incarcerated</u>			
	<u>\$3,275</u>	<u>\$4,009</u>	<u>\$8,178</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Could exceed <u>\$292,559</u>)	(Could exceed <u>\$723,741</u>)	(Could exceed <u>\$737,767</u>)

FISCAL IMPACT - Local Government

FY 2017
(6 Mo.)

FY 2018

FY 2019

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

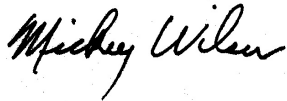
Currently, offenders who were under the age of 18 at the time they committed first degree murder must be sentenced to life imprisonment without eligibility for probation, parole, or conditional release. This act repeals the mandatory life sentence found to be unconstitutional in the United States Supreme Court case Miller v. Alabama. Under these provisions, a person 16 years of age or older at the time of the crime may be sentenced to either life imprisonment without parole or imprisonment for at least 40 years. A person who was under the age of 16 may be sentenced to imprisonment for at least 30 years or life without parole. Any person who was sentenced to life imprisonment without parole for a crime committed before the person turned 18 whose case is not final for purposes of appeal may, within six months of the effective date of the act, file a motion with the sentencing court for a review of the person's sentence. This act specifies that the new procedures for juvenile first degree murderers do not apply to cases that are final for purposes of appeal. The offense of murder in the first degree was added to the definition of "dangerous felony."

This act contains an emergency clause for the provisions regarding the penalty for first degree murder.

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 State Public Defender
Office of the Attorney General
Office of the State Courts Administrator
Department of Corrections
Department of Mental Health
Department of Social Services
Office of Prosecution Services



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Director
March 4, 2016

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March 4, 2016