

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1968-04
Bill No.: SCS for HCB 1
Subject: Courts; Civil Procedure; Guardians; Crimes and Punishment; Uniform Laws;
Property, Real and Personal
Type: Original
Date: May 12, 2017

Bill Summary: This proposal modifies provisions relating to judicial proceedings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
General Revenue	Less than \$70,034	Less than \$593,771	Less than \$845,655	Less than \$872,181
Total Estimated Net Effect on General Revenue	Less than \$70,034	Less than \$593,771	Less than \$845,655	Less than \$872,181

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Criminal Records Fund	Unknown to (\$93,575)	Unknown to (\$113,434)	Unknown to (\$114,586)	Unknown to (\$115,752)
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown to (\$93,575)	Unknown to (\$113,434)	Unknown to (\$114,586)	Unknown to (\$115,752)

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 28 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
General Revenue	2 FTE	2 FTE	2 FTE	2 FTE
Criminal Records Fund	2 FTE	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	4 FTE	4 FTE	4 FTE	4 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 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
Local Government	Less than \$847,680 to (Unknown)	Less than \$847,680 to (Unknown)	Less than \$847,680 to (Unknown)	Less than \$847,680 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§29.225, §105.478, §595.219 Official Misconduct

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

In response to similar legislation filed this year, SB 176, officials at the **Office of the Attorney General** assumed any potential costs arising from this proposal can be absorbed with existing resources.

In response to similar legislation filed this year, SB 176, officials at the **Office of the Secretary of State** and the **Department of Corrections** each assumed no fiscal impact to their respective agencies from this proposal.

In response to similar legislation filed this year, SB 176, officials at the **Boone County Sheriff's Department**, the **Springfield Police Department**, the **St. Louis County Police Department** and the **St. Louis County Justice Services** each assumed no fiscal impact to their respective entities from this proposal.

§105.713

In response to similar legislation from this year, HCB 7, officials from the **Missouri Senate**, the **Department of Corrections** and **Missouri House of Representatives** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal from 2017 (HB 858, LR # 1782-01), officials from the **Attorney General's Office** assumed that any potential costs arising from the proposal could be absorbed with existing resources.

Oversight notes the proposal adds certain details that should be provided in the report submitted by the Attorney General and the Commissioner of Administration to the General Assembly regarding activity concerning the State Legal Expense Fund. Oversight assumes the added details of the report and the added duties of the Commissioner of Administration will not have any material impact on the affected agencies.

§144.026

Officials at the **City of Kansas City** assume a small negative fiscal impact of an indeterminate amount from this proposal.

ASSUMPTION (continued)

§§210.845, 452.370, 452.747 and 454.500 Responsive Pleadings

In response to similar legislation from this year, HCB 1, Officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

In response to similar legislation this year, HCS for HB 285, officials at the **Office of the Attorney General** assumed no fiscal impact from this proposal.

§§210.1109, 475.600, 475.602, 475.604

In response to similar legislation from this year, HCS for SB 195, officials from the **Department of Public Safety (DPS), Missouri State Highway Patrol (MHP)** stated subsection 6 of section 475.602 requires a community service program that offers support services for families in crisis under this section to ensure that a fingerprint-based background check, a sex offender registry check (included with a fingerprint-based background check) and a child abuse and neglect registry check is completed for the attorney-in-fact and any adult members of his or her household prior to the placement of the child. It does not, however, specify if the fingerprint-based background check is to include a federal fingerprint-based background check. Therefore, the Criminal Justice Information Services (CJIS) Division is unable to determine the exact cost of the fingerprint-based background check or the expected number of fingerprint-based background checks to be completed on attorney-in-facts or any adult members of the household prior to the placement of the child.

However, the cost for a fingerprint-based background check, to include state and federal open and closed records, is as follows:

State fee:	\$20
Federal Bureau of Investigations (FBI) fee:	\$12
Applicant fingerprinting vendor fee:	<u>\$ 8.30</u>
TOTAL fee per applicant:	<u><u>\$40.30</u></u>

Of these amounts, the state retains the \$20 state fee and \$2 of the federal charge of \$12 for a pass-thru fee. The \$8.30 charge is paid directly to the vendor at the time of application.

Once the anticipated number and types of background checks to be completed under this legislation has been determined, CJIS will be able to estimate the amount of funds to be deposited in the Criminal Records Fund under this proposal.

In response to similar legislation from this year, HCS for SB 195, officials from the **Kirksville R-III School District** state they are unable to determine the fiscal impact of this proposal on their school district.

ASSUMPTION (continued)

Oversight assumes the costs of additional background checks would not be significant and could be absorbed by the school district.

In response to similar legislation from this year, HCS for SB 195, officials from the **Department of Social Services, Divisions of: Family Support, Legal Services, and Children's**, the **Office of State Courts Administrator** and the **Kansas City Public Schools** each assumed the proposal would not fiscally impact their respective agencies.

In response to similar legislation from this year, HCS for SB 195, officials from the **Everton R-III School District**, the **Kearney School District**, the **Pettis County R-XII School District**, the **West Plains Schools**, and the **Wright City R-II School District** each assumed the proposal would not fiscally impact their respective agencies.

§302.441 Ignition Interlock Device

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

§400.9-501 and §570.095 Offense of Filing False Documents

In response to similar legislation filed this year, HB 303, officials at the **Department of Corrections (DOC)** assumed this proposal removes a Class E felony for filing false documents in RSMo 400.9-501 and replaces it with a Class D/Class C felony in the newly created RSMo 570.095.

The language in the newly created section is more specific than that in the current statute, and allows for a Class D felony for first time offenders, with an enhancement to class C for repeat offenders or offenses against certain government officials, police, fire fighters, etc. While this change makes the legislation more clear, it does not appear that any new actions would be considered a crime under these changes.

The current legislation found in RSMo 400.9-501 was modified in 2014 to introduce the criminal penalty. No charge code was ever created for this statute, and the legislation is still quite new, meaning that good data for the current impact is unknown. Thus, this will be treated as a new offense; further, as this offense is expected to be quite rare, only the D felony version will be considered. The standard response for a new non-violent D felony is found below. Under this situation, 3 individuals will be sentenced to prison and 5 to probation in each fiscal year. For incarcerated individuals, the average sentence is 4.8 years, with a total of 2.9 years in prison and 1.9 years on parole; the probationers serve a 3.0 year term.

ASSUMPTION (continued)

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
New										
Admissions	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Probations	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Cumulative Populations										
Prison	3.0	6.0	8.7	8.7	8.7	8.7	8.7	8.7	8.7	8.7
Parole			0.3	3.3	5.7	5.7	5.7	5.7	5.7	5.7
Probation	5.0	10.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0
Impact										
Prison Population	3.0	6.0	8.7	8.7	8.7	8.7	8.7	8.7	8.7	8.7
Field Population	5.0	10.0	15.3	18.3	20.7	20.7	20.7	20.7	20.7	20.7
Population Change	8.0	16.0	24.0	27.0	29.4	29.4	29.4	29.4	29.4	29.4

Thus, this legislation is estimated to increase the prison population by 8.7 individuals by FY2020, and increase the field population to 20.7 by FY2022.

The FY 2016 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

The DOC would assume this legislation will result in long term costs as indicated in the chart below.

	# to Prison	Cost per year	Total Cost Prison	# to Probation & Parole	Cost per year	Total Cost P&P	Grand Total P&P
Year 1	3	(\$6,085)	(\$18,255)	5	(\$2,234)	(\$11,170)	(\$24,521)
Year 2*	6	(\$6,085)	(\$36,510)	10	(\$2,234)	(\$22,340)	(\$60,027)
Year 3*	8.7	(\$6,085)	(\$52,940)	15.3	(\$2,234)	(\$34,180)	(\$90,639)
Year 4*	8.7	(\$6,085)	(\$52,940)	18.3	(\$2,234)	(\$40,882)	(\$99,564)
Year 5*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$107,359)
Year 6*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$109,506)
Year 7*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$111,697)
Year 8*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$113,930)
Year 9*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$116,209)
Year 10*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$118,533)

* Includes 2% inflation

ASSUMPTION (continued)

In response to similar legislation filed this year, HB 303, officials from the **Attorney General's Office** assumed that any potential costs arising from this proposal can be absorbed with existing resources.

In response to similar legislation from this year, HCB 1, officials at the **Office of State Public Defender (SPD)** could not assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of intentionally filing a fraudulent financing statement or any financing statement with the Secretary of State with the intent to harass or defraud any other person. This offense would be a new Class D Felony, unless the offense meets other circumstances, then it becomes a Class C 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.

Oversight assumes the State Public Defender's Office can absorb the additional caseload that may result from this proposal.

In response to similar legislation from this year, HCB 1, officials from the **Office of the Secretary of State (SOS)** file more than 155,000 UCC filings per year, so additional staff would be needed to conduct the additional review this proposal requires. It is anticipated that two new FTE would need to be created with salaries at \$29,000 per year. Missouri law requires the SOS to file UCC filing within three business days of receipt; therefore, these filings would have to be prioritized for this additional review to comply with these guidelines. RSMo § 400.9-519(h).

The estimate for one-time IT costs (\$80,000) is based on previous experiences contracting with vendors to make changes to existing software. The estimate that two additional full-time employees would be needed is based upon the estimate of how many UCC filings would be reviewed per year (155,000).

In response to similar legislation filed this year, HB 303, officials at **St. Charles County** assumed there would be a minimal fiscal impact for maintaining a spreadsheet of suspect documents and emailing them to law enforcement.

ASSUMPTION (continued)

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

In response to similar legislation filed this year, HB 303, officials from the **Boone County Sheriff's Department** and **Cole County Sheriff** each assumed the proposal would have no fiscal impact on their respective organizations.

\$252.069, \$479.170, \$488.029, \$488.5050, \$557.035, \$565.076, \$565.091, \$566.010, \$575.280, \$577.001, \$577.010, \$595.045

In response to similar legislation from this year, HCS for HB 1133, officials from the **Department of Public Safety - Office of the Director** and the **Office of the State Courts Administrator** each assumed the proposal would not fiscally impact their respective agencies.

In response to similar legislation from this year, HCS for HB 1133, and for the purpose of this proposed legislation, 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 persons faced with the enhanced penalties for second and subsequent harassment offenses, a new class E felony. The legislation also provides for increased penalties for acceding to corruption.

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.

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

In response to similar legislation from this year, HCS for HB 1133, officials from the **Department of Corrections (DOC)** stated this legislation proposes a number of changes to the Missouri criminal code.

Section 565.076 changes the language regarding domestic assault to include “any violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, two or more times, would be a violation of this section in which case it is a Class E Felony.” This would allow for violations from other states to be included as a determinant for someone being charged as a “prior or persistent” offender under a E Felony. This is expected to create a new violent offense.

ASSUMPTION (continued)

There are many other sections with minor changes, none of which creates an impact to the DOC.

If this impact statement has changed from statements submitted in previous years, it is because the department's Budget and Research Section reviewed the way responses had been submitted and has developed a more precise way to calculate the impact. In previous year's responses, the full impact of recidivism for parole releases was not adequately calculated. Now we have been able to quantify the fact that some parolees are returned to prison after release and that has been added into the calculation of the impact. The total number of offenders has not changed but there is an assumption that they will spend more time back in prison rather than being on community supervision, which will increase the amount of the impacts.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

The DOC would assume this legislation will result in long term costs as indicated in the chart below.

	# to prison	Cost per year	Total Costs for prison		# to probation	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	2	(\$6,085)	(\$12,170)		1	(\$2,234)	(\$2,234)	(\$12,003)
Year 2	4	(\$6,085)	(\$24,340)		2	(\$2,234)	(\$4,468)	(\$29,384)
Year 3	6	(\$6,085)	(\$36,510)		3	(\$2,234)	(\$6,702)	(\$44,958)
Year 4	6	(\$6,085)	(\$36,510)		6	(\$2,234)	(\$13,404)	(\$52,969)
Year 5	6	(\$6,085)	(\$36,510)		6	(\$2,234)	(\$13,404)	(\$54,029)

In response to similar legislation from this year, HCS for HB 1133, officials from the **Department of Revenue (DOR)** stated the following changes are made in the bill:

- §577.001 - The proposed language adds federal and military offenses to the definition of "intoxication-related traffic offense". It's also removing certain felony DWI-Fatality offenses from this section and adds them to §577.010; and

ASSUMPTION (continued)

- §577.010 - The proposed language was removed from §577.001 and placed in this section with all other driving while intoxicated offenses. This will require three new charge codes to be created by State Judicial Records Committee (SJRC). This would require the Department to map the newly created charge codes to our existing MODL codes.

DOR assumes the proposal would require the following changes:

- Updates to Forms and Internal procedures;
- Updates to Website;
- Training of Staff; and
- Review of new charges codes to map to existing MODL codes.

These updates would require the following staff time:

Management Analyst I - 80 hours @ \$20.94 per hour =	\$1,675
Revenue Band Manager I - 40 hours @\$25.93 per hour=	<u>\$1,037</u>
Total	\$2,712

Update web pages-

Administrative Analyst III - 40 hrs. @ \$22.59 per hour =	\$904
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DOR assumes it will be able to absorb the above listed costs. If multiple bills pass which require Department resources and updates, the Department could request additional FTE's and related equipment and expenses through the appropriation process.

§456.4-414 and §456.4-420 Trust Instruments

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

In response to similar legislation filed this year, HB 427, officials at the **Office of the State Public Defender** assumed no fiscal impact from this proposal.

472.400, 472.405, 472.410, 472.415, 472.420, 472.425, 472.430, 472.435, 472.440, 472.445, 472.450, 472.455, 472.460, 472.465, 472.470, 472.475, 472.480, 472.485, 472.490

In response to similar legislation from this year, HCS for HB 379, officials at the **Office of Administration (OA)** assumed ITSD would need to make coding changes in the Employee Self Service System to remove the Single Sign On links to benefit providers. This would occur when the user would be someone other than the actual employee. These changes would take 162 hours of work at \$75 per hour for a total cost of \$12,150.

ASSUMPTION (continued)

Oversight assumes the OA is provided with core funding to handle a certain amount of computer activity from each year's legislative session. Oversight assumes OA could absorb the coding changes related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA could request funding through the appropriation process. Therefore, Oversight will reflect a \$0 fiscal impact to this proposal.

In response to similar legislation from this year, HCS for HB 379, officials at the **Office of the State Courts Administrator**, the **Department of Insurance, Financial Institutions and Professional Registration** and the **Office of the State Public Defender** each assumed no fiscal impact to their respective agencies from this proposal.

§475.084 Visitation Rights

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

§478.463 Division 12 of the 16th Judicial Circuit

In response to a previous version, officials at the **Office of the State Courts Administrator** assumed the proposed legislation may have some impact on the state as well as the county, but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

§479.020 Municipal Courts

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

In response to similar legislation from this year, HCS for HB 380, officials at the **Office of the Attorney General** and the **Office of the State Public Defender** each assumed no fiscal impact to their respective agencies from this proposal.

§§479.353, 479.354

Officials at the **City of Kansas City** assume a small negative fiscal impact of an indeterminate amount from this proposal.

Oversight assumes this proposal changes and creates provisions relating to minor traffic violations in municipal court. Oversight assumes the court may order a credit for time served for individuals who were previously assessed a fine if the individual was held in custody for a minor traffic violation. Oversight assumes this will be at the discretion of the court and will have minimal impact on this proposal. Therefore Oversight will reflect a \$0 impact for this proposal.

ASSUMPTION (continued)

In response to similar legislation from this year, HCS for HB 380, officials at the **Office of the State Courts Administrator** and the **Office of the State Public Defender** each assumed no fiscal impact to their respective agencies from this proposal.

Officials at the Office of the Attorney General did not respond to **Oversight's** request for fiscal impact.

§488.2206 Court Surcharge

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator (OSCA)** assumed the proposed legislation modifies provisions relating to judicial proceedings. The 6th Circuit (Platte County), 7th Circuit (Clay County), 19th Circuit (Cole County), 29th Circuit (Jasper County), 31st Circuit (Greene County), 38th Circuit (Christian County), and 46th Circuit (Taney County) qualify. Based on FY 2015 data, there were 40,890 filed civil cases and 43,878 filed criminal cases. OSCA anticipates the surcharge could be up to approximately \$847,680 ($40,890 + 43,878 = 84,768$ (\$10) = \$847,680).

Oversight assumes OSCA's response includes Greene County. This proposal adds single non-charter county judicial circuits; however, Greene County's surcharge was authorized in Truly Agreed To and Finally Passed CCS for SS for SCS for HCS for HB 1231 from 2014 session. Oversight can not back into Greene County's number from OSCA's response, therefore, Oversight assumes the revenue collected from this surcharge on non-charter county judicial circuits will be less than \$847,680.

§488.2250 Court Reporter Fees

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Public Defender (MSPD)** assumed this proposal relates to fees paid to court reporters. The current law, §488.2250, sets the rate for appeal transcripts or proceedings in any circuit court. This would be \$3.50 per page, except for in forma pauperis appeal transcripts which are \$2.60 per page. The proposed change would set the rate only for appeal transcripts or no change in rate.

Court reporters would not be regulated in what they charge for transcripts of hearings, daily transcripts of trials, etc. The proposal would allow court reporters to charge whatever the market will bear except for appeal transcripts. Presumably, costs would go up to MSPD and other litigants. There would be a significant fiscal impact as MSPD frequently orders court transcripts for purposes other than appeal. For trial preparation, MSPD frequently orders transcripts of proceedings such as:

- preliminary hearings
- suppression hearings

ASSUMPTION (continued)

- 491 hearings on admissibility of hearsay statements of alleged child sex victims
 - trial transcripts when a first trial ended in a hung jury
 - transcripts of a co-defendant's trial, etc

As the amount a court reporter will charge for these items will no longer be set by statute, and it is unknown what the court reporter will charge, it is impossible to place a firm fixed cost on this proposed legislation. Historically speaking, this proposal could cost MSPD more than \$100,000. The increase in costs of this proposal would limit the MSPD's ability to meet its other core responsibilities.

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator (OSCA)** assumed the proposed legislation modifies provisions relating to judicial proceedings. There may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

In response to similar legislation filed this year, HB 597, officials at the **Office of the Attorney General** assume no fiscal impact from this proposal.

Oversight notes FY 2013, Truly Agreed To and Finally Passed CCS for HCS for SB 100, was the last time the court fee rate was changed for transcripts from court reporters. Officials from OSCA stated the rate changed from \$2.00 per page to \$3.50 per page and \$2.60 for indigents. OSCA responded with a fiscal impact of less than \$100,000. Because this proposal does not set the rate in statute for hearings, daily transcripts of trial, etc., the fiscal impact could be significant for both state and local political subdivisions. Therefore, Oversight will reflect a negative fiscal impact that could exceed \$100,000 for MSPD and a negative unknown fiscal impact to local political subdivisions.

§513.430 and §513.440 Property

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

§514.040 Guardian ad litem fees

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

In response to similar legislation filed this year, HB 765, officials at the **Office of the State Public Defender** assumed no fiscal impact from this proposal.

ASSUMPTION (continued)

§§515.575, 515.635 - General Receiver and Noncontingent liquidated claims rate

In response to similar legislation from 2016, SCS for HB 2590, officials from the **Office of Administration - Division of Purchasing** and the **Office of Administration - Division of Accounting** each assumed the current proposal would not fiscally impact their respective agencies.

In response to similar legislation from 2016, SCS for HB 2590, officials from the **County of St. Louis**, and the **Cole County Sheriff's Department** each assumed the current proposal would not fiscally impact their respective organizations.

In response to similar legislation from 2016, SCS for HB 2590, officials from the **Attorney General's Office (AGO)** assumed that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in cases.

In response to similar legislation from this year, HCS for HCB 8, officials at the **Office of the State Courts Administrator**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Corrections**, the **Department of Natural Resources**, the **Department of Agriculture** and the **Office of Administration's Administrative Hearing Commission** each assumed no fiscal impact to their respective agencies from this proposal.

§552.020 Department of Mental Health's Standing in Trials

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

In response to similar legislation filed this year, SB 221, officials at the **Office of the State Public Defender** assumed no fiscal impact from this proposal.

§577.011 Victim Impact Program

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

§577.037

In response to similar legislation from this year, HB 35, officials at the **Office of the Attorney General** assumed that any potential costs arising from this proposal can be absorbed with existing resources.

ASSUMPTION (continued)

In response to similar legislation from this year, HB 35, and for the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any indigent client faced with the DWI that could be prosecuted arising from that approximate 15-month period listed in the statute.

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 this year, HB 35, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

In response to similar legislation from this year, HB 35, officials at the **Callaway County Commission** and the **City of Excelsior Springs** each assumed no fiscal impact to their respective entities from this proposal.

§577.060 Penalty for Leaving the Scene of an Accident

In response to similar legislation from this year, HCB 1, officials from the **Department of Corrections (DOC)** stated this legislation modifies §577.060 by creating an enhanced penalty for persons who leave the scene of an accident when a death has occurred. By current statute, leaving the scene of an accident where physical injury was caused by another party is a class D felony (class E, 2017). This bill adds a penalty specifically for the instance of death which would be a class C felony (class D, 2017). As the current statute does not specifically address a resulting death in sentencing, an offense could incur a second charge of 1st or 2nd degree involuntary manslaughter. Through 2016, 1st degree manslaughter for recklessly causing death is also a class C felony, and as of January 2017 will be a more serious offense taking precedence over the bill's enhanced class D felony. These offenses would carry similar or greater sentencing to the enhanced class C felony proposed in this bill, thereby affecting no change.

Leaving the scene of an accident where a death has occurred remains no more serious than the corresponding charge of 1st degree manslaughter. Therefore, this legislation will have no fiscal impact on the DOC.

ASSUMPTION (continued)

In response to similar legislation from this year, HCB 1, officials from the **Office of State Public Defender (SPD)** could not assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of leaving the scene of an accident when a death has occurred - a new class 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.

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

In response to similar legislation from this year, HCB 1, officials at the **Office of the State Courts Administrator** assumed no fiscal impact from this proposal.

§589.664 - Participant address confidentiality program

In response to similar legislation from this year, SCS for HCS for HB 260, officials from the **Office of State Courts Administrator** assumed the proposal would not fiscally impact their agency.

In response to similar legislation from this year, SCS for HCS for HB 260, officials from the **Office of the Secretary of State (SOS)** stated 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 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, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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.

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.

ASSUMPTION (continued)

§650.055

Officials at the **Department of Corrections (DOC)** assume this bill modifies the definition of criminal nonsupport so that an individual must have an arrearage of at least 24 monthly payments (instead of 12) to be guilty of a class E felony. Further, it allows for the expungement of a conviction for criminal nonsupport after a period of eight years. This bill is similar to that found in FN 5083-01 HB 2191 from 2016 and FN 0352-01 HB 178 from 2015.

The only difference between this legislation and that from FN 5083-01 is that the offense is now a class E felony; the earlier response dealt with the effects of the criminal code revision. Thus, the response provided below is the same as that for FN 5083-01, with the exception that the numbers have been updated to reflect current sentencing rates and to include the effects of recidivism.

These provisions modify two parts of the current statute regarding child support arrears by changing the minimum requirements for expungement under this statute and also altering the conditions under which a person in arrears is guilty of a class E Felony for nonsupport.

For a person to receive an expungement of a criminal nonsupport conviction they must meet the following criteria:

- It must be their first felony offense for criminal nonsupport under this section;
- Eight years must have elapsed after they have successfully completed probation or their sentence;
- Have not had any subsequent offense;
- Does not have any other felony pleas of guilt, findings of guilt or convictions;
- Is current on all child support obligations;
- Has paid off all arrearages; and
- Has no other criminal charges or administrative child support actions pending at the time of the hearing on the application for expungement with respect to all children subject to orders of payment of child support or that the defendant has successfully completed a criminal nonsupport courts program under section 478.1000.

If the criteria are met, the court shall enter an order of expungement. Upon granting the order of expungement, the records and files maintained in any court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction. A person is entitled to one expungement under this section.

ASSUMPTION (continued)

Nothing in this section shall prevent the director of the Department of Social Services from maintaining such records as to ensure that an individual receives only one expungement under this section for the purpose of informing the proper authorities of the contents of any record maintained under this section.

Regarding the class E Felony, the time required to meet the criteria of nonsupport would increase. The offense of criminal nonsupport is a class A misdemeanor, unless the total arrearage is in excess of an aggregate of [twelve] twenty-four monthly payments due under any order of support issued by any court of competent jurisdiction or any authorized administrative agency, in which case it is a class E felony. Thus, the time one would have to be in arrears would be 24 months instead of 12 months.

There would be no effect on the DOC with regards to the expungement proposed under this bill. Records can still be accessed by agencies with "good cause," including DSS who is responsible for ensuring a defendant is only entitled to one expungement.

This bill, however, should have an impact due to the change in the current class E Felony for this offense. It is anticipated that there should be a 20% reduction in the number of offenders who are sentenced under this statute as proposed due to the extended timeline which is required to qualify for an E Felony in nonsupport. This is based on the previous reduction which occurred in 2010 when the previous statute, which sentenced all in arrears for 6 months or more to an E Felony, changed to the present statute.

In FY2016 there were a total of 221 new prison admissions with an average sentence of 3.2 years. Those released on sentences of criminal nonsupport served 26.7% of their time in prison before their first release. Additionally, there were 383 new probations with an average term of 4.9 years. The Earned Compliance Credit reduces the time served for these offenders to approximately 3.0 years. A reduction of 20% would eliminate 44 prison sentences and 77 probation sentences. The total impact of this reduction, including prison returns, is found in the table below.

ASSUMPTION (continued)

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
New										
Admissions	-44.0	-44.0	-44.0	-44.0	-44.0	-44.0	-44.0	-44.0	-44.0	-44.0
Probations	-77.0	-77.0	-77.0	-77.0	-77.0	-77.0	-77.0	-77.0	-77.0	-77.0
Cumulative Populations										
Prison	-44.0	-83.6	-83.6	-83.6	-83.6	-83.6	-83.6	-83.6	-83.6	-83.6
Parole		-4.4	-48.4	-57.2	-57.2	-57.2	-57.2	-57.2	-57.2	-57.2
Probation	-77.0	-154.0	-231.0	-231.0	-231.0	-231.0	-231.0	-231.0	-231.0	-231.0
Impact										
Prison Population	-44.0	-83.6	-83.6	-83.6	-83.6	-83.6	-83.6	-83.6	-83.6	-83.6
Field Population	-77.0	-158.4	-279.4	-288.2	-288.2	-288.2	-288.2	-288.2	-288.2	-288.2
Population Change	-121.0	-242.0	-363.0	-371.8	-371.8	-371.8	-371.8	-371.8	-371.8	-371.8

With passage of this legislation, the Department of Corrections would expect to see a decrease of 44 individuals in prison and 77 on probation in the first fiscal year after enactment. This would reach the full impact of 83.6 fewer offenders in prison and 288.2 fewer in the field in the fourth year after enactment.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

	fewer # to prison	Cost per year	Total Costs for prison (savings)	fewer # to probation	Cost per year	Total costs for probation and parole (savings)	Grand Total - Prison and Probation (includes and 2% inflation (savings)
Year 1	(44.0)	(\$6,085)	\$267,740	(77.0)	(\$2,234)	\$172,018	\$366,465
Year 2	(83.6)	(\$6,085)	\$508,706	(158.4)	(\$2,234)	\$353,866	\$879,823
Year 3	(83.6)	(\$6,085)	\$508,706	(279.4)	(\$2,234)	\$624,180	\$1,178,654
Year 4	(83.6)	(\$6,085)	\$508,706	(288.2)	(\$2,234)	\$643,839	\$1,223,090

In summary, the DOC would assume this legislation will result in long term cost avoidance as follows:

FY18 - \$366,465
 FY19 - \$879,823
 FY20 - \$1,178,654
 FY21 - \$1,223,090

ASSUMPTION (continued)

Officials at the **Department of Public Safety's Missouri Highway Patrol (DPS/MHP)** assume the Criminal Justice Information Services Division (CJIS) states that there are currently 26,626 individuals that were convicted/pled guilty to felony nonsupport in the Central Repository prior to 2009 (eight years ago). It is assumed that many of these individuals will not apply for expungement due to not meeting the clean records requirements. However, for the purpose of this estimate, the assumption is that 10% (2,663) of these individuals will qualify and apply for expungement. There are an additional 17,462 felony arrests with corresponding court actions that would become eligible over the next eight years, which averages 2,183 (17,462 / 8) per year.

1 FTE = 1,864 hours (average work hours per year) x 60 minutes per hour = 111,840 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 1,243 expungements per year = 111,840 / 90.

These FTE (CJIS Technicians, Range 16) 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 \$55,495 and the ability of that employee to process 1,243 expungements per year, the cost alone per expungement is $\$55,495 \div 1,243 = \44.64 . 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.

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 \$6,094 per FTE.

In response to a previous version, 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 **Office of the State Courts Administrator**, the **Department of Social Services** and the **Department of Mental Health** 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 Public Defender** and the **Office of Prosecution Services** each assumed no fiscal impact to their respective agencies from this proposal.

Officials at the **City of Kansas City**, the **Springfield Police Department** and the **St. Louis County Department of Justice Services** each assume no fiscal impact to their respective entities from this proposal.

In response to a previous version, officials at **St. Louis County**, the **Callaway County Commission** and the **Boone County Sheriff's Department** each assumed no fiscal impact to their respective entities from this proposal.

Bill as a whole

Officials at the **Office of the State Treasurer** and the **Missouri Department of Transportation** each assume no fiscal impact to their respective agencies from this proposal.

FISCAL IMPACT -
State Government

	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
GENERAL REVENUE FUND				
<u>Cost</u> - DOC - new class E felony requires additional incarceration and supervision of offenders (§§252.069, §479.170, §488.029, §488.5050, §557.035, §565.076, §565.091, §566.010, §575.280, §577.001, §577.010, §595.045)	(\$12,003)	(\$29,384)	(\$44,958)	(\$52,969)
<u>Cost</u> - DOC - incarceration and/or supervision of offenders §400.9- 501	(\$24,521)	(\$60,027)	(\$90,639)	(\$99,564)
<u>Cost</u> - SOS				
Personal Services	(\$48,333)	(\$58,580)	(\$59,166)	(\$59,758)
Fringe Benefits	(\$31,574)	(\$38,061)	(\$38,236)	(\$38,618)
One Time IT costs	<u>(\$80,000)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Total Costs - SOS	(\$159,907)	(\$96,641)	(\$97,402)	(\$98,376)
FTE Change §400.9-501	2 FTE	2 FTE	2 FTE	2 FTE
<u>Costs</u> - SPD - Potential increase in court reporter fees §488.2250* *Depending on fee change, if any	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
Savings/Cost Avoidance - DOC - decrease in offender population (\$650.055)	<u>\$366,465</u>	<u>\$879,823</u>	<u>\$1,178,654</u>	<u>\$1,223,090</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	Less than <u>\$70,034</u>	Less than <u>\$593,771</u>	Less than <u>\$845,655</u>	Less than <u>\$872,181</u>
Estimated Net FTE Change to the General Revenue Fund	2 FTE	2 FTE	2 FTE	2 FTE

FISCAL IMPACT -
State Government

	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
CRIMINAL RECORDS FUND				
Income - DPS - §475.602 - background check fees	Unknown	Unknown	Unknown	Unknown
Costs - DPS/MHP §650.055				
Personal Service	(\$49,300)	(\$59,752)	(\$60,349)	(\$60,952)
Fringe Benefits	(\$43,192)	(\$52,349)	(\$52,872)	(\$53,401)
Equipment & Expense	<u>(\$1,083)</u>	<u>(\$1,333)</u>	<u>(\$1,365)</u>	<u>(\$1,399)</u>
Total Costs	<u>(\$93,575)</u>	<u>(\$113,434)</u>	<u>(\$114,586)</u>	<u>(\$115,752)</u>
FTE Change - DPS/MHP	2 FTE	2 FTE	2 FTE	2 FTE
ESTIMATED NET EFFECT ON THE CRIMINAL RECORDS FUND	Unknown to <u>(\$93,575)</u>	Unknown to <u>(\$113,434)</u>	Unknown to <u>(\$114,586)</u>	Unknown to <u>(\$115,752)</u>
Estimated Net FTE Change for Criminal Records Fund	2 FTE	2 FTE	2 FTE	2 FTE

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2021)
LOCAL POLITICAL SUBDIVISIONS				
<u>Revenue</u> - \$10 surcharge on cases in the single noncharter county judicial circuits §488.2206	Less than \$847,680	Less than \$847,680	Less than \$847,680	Less than \$847,680
<u>Cost</u> - increase in court reporter fees from municipal courts §488.2250* *Depending on fee change, if any	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	Less than \$847,680 to <u>(Unknown)</u>	Less than \$847,680 to <u>(Unknown)</u>	Less than \$847,680 to <u>(Unknown)</u>	Less than \$847,680 to <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

§252.069, §479.170, §488.029, §488.5050, §557.035, §565.076, §565.091, §566.010, §575.280, §577.001, §577.010, §595.045

This proposal modifies various provisions relating to criminal offenses.

§400.9-501

This bill creates the offense of filing a false document, which is committed if a person files, causes to be filed, or attempts to file, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, or transferred to the

FISCAL DESCRIPTION (continued)

Secretary of State or his or her designee, any county recorder of deeds or his or her designee, any municipal, county, district, or state government entity or office, or any credit bureau or financial institution specified documents. For the first offense, filing a false document is a class D felony. Filing false documents is a class C felony in certain specified instances.

Any person who is found guilty of committing such offense will be ordered to make full restitution to any person or entity that has sustained any actual losses as a result of the commission of such offense.

The bill specifies that a system must be created, by January 1, 2018, in which suspicious filings are logged, and outlines the process for petitioning the court when a person has probable cause to believe a filing is fraudulent.

§475.602

Community service programs for families in crisis must conduct a background check of an attorney-in-fact and any adult members of his or her household prior to the placement of the child.

§488.2206

This act provides that any single noncharter county judicial circuit, rather than just the Thirty-First Judicial Circuit, shall collect a surcharge of up to ten dollars in all cases to be deposited in an account known as the "Justice Center Fund." In addition to costs associated with the construction, maintenance, and operation of a judicial facility, the act states that the funds from the surcharge may be used for the planning, including architectural and engineering plans, of a judicial facility or justice center. The county or municipality shall maintain records identifying all funds received and expenditures made from the fund.

§488.2250

This bill repeals provisions of law that specify that court reporters shall receive \$3.50 per page in proceedings in any circuit court. The bill also repeals the requirement that court reporters be reimbursed at \$3.50 per page.

§650.055

This bill defines the term "arrearage" and specifies that 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 E 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.

FISCAL DESCRIPTION (continued)

A person may petition the court for the expungement of the criminal records of a first felony offense of criminal nonsupport after at least eight years have elapsed since the person requesting expungement has completed his or her imprisonment or period of probation. The bill lays out the specific elements a court must find the petitioner has met before ordering expungement. 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 took effect January 1, 2017.

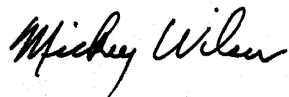
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Prosecution Services
Office of the State Public Defender
Department of Corrections
Office of the State Courts Administrator
Missouri Department of Conservation
Department of Transportation
Department of Revenue
Office of Administration
 Division of Purchasing
 Division of Accounting
 Administrative Hearing Commission
Department of Health and Senior Services
Department of Mental Health
Department of Insurance, Financial Institutions and Professional Registration
Department of Social Services
Office of State Auditor
Department of Public Safety
 Missouri Highway Patrol
 Office of the Director
Missouri Ethics Commission
Missouri Senate

SOURCES OF INFORMATION (continued)

Missouri House of Representatives
Office of the State Treasurer
State Tax Commission
Office of the Attorney General
Office of the Secretary of State
Department of Natural Resources
Department of Agriculture
Department of Economic Development
Boone County Sheriff's Office
Springfield Police Department
St. Louis County Police Department
St. Louis County Department of Justice Services
St. Charles County
Cole County Sheriff's Department
St. Louis County
Callaway County Commission
City of Excelsior Springs
City of Columbia
City of Kansas City
Kirksville R-III School District
Kansas City Public Schools
Everton R-III School District
Kearney School District
Pettis County R XII School District
West Plains Schools
Wright City R II School District
Springfield Police Department



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Director
May 12, 2017

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May 12, 2017