

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0761-05
Bill No.: SCS for HCS for HB 192
Subject: Administrative Law; Cities, Towns and Villages; Courts; Crimes and Punishment; Criminal Procedure; Fees; Judges
Type: #Updated
Date: May 3, 2019
#To include effects of provisions concerning administrative adjudication of certain violations

Bill Summary: This proposal modifies provisions relating to court procedures, including the payment of fines and the administrative adjudication of certain violations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(\$13,284) to (\$66,632)	\$0 to (\$80,631)	\$0 to (\$81,312)
Total Estimated Net Effect on General Revenue	(\$13,284) to (\$66,632)	\$0 to (\$80,631)	\$0 to (\$81,312)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
#State Court Automation Fund	\$0 to (\$436,154)	\$0 to (\$436,154)	\$0 to (\$436,154)
#Crime Victims' Compensation Fund	\$0 to (\$3,924,201)	\$0 to (\$3,924,201)	\$0 to (\$3,924,201)
#POST Fund	\$0 to (\$540,685)	\$0 to (\$540,685)	\$0 to (\$540,685)
Missouri Office of Prosecution Services	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Various State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
#Total Estimated Net Effect on Other State Funds	\$0 to (Unknown, Could Exceed \$4,901,040)	\$0 to (Unknown, Could Exceed \$4,901,040)	\$0 to (Unknown, Could Exceed \$4,901,040)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	0 or 1 FTE	0 or 1 FTE	0 or 1 FTE
Total Estimated Net Effect on FTE	0 or 1 FTE	0 or 1 FTE	0 or 1 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 2020	FY 2021	FY 2022
#Local Government	Unknown to (Unknown, Could Exceed \$7,334,755)	Unknown to (Unknown, Could Exceed \$7,334,755)	Unknown to (Unknown, Could Exceed \$7,334,755)

FISCAL ANALYSIS

ASSUMPTION

§479.011 - Administrative adjudication of certain municipal ordinance violations

Officials at the **Department of Revenue (DOR)** assume the proposed legislation allows cities and villages to establish an administrative adjudication system allowing them to adjudicate nonmoving traffic violations, minor traffic violations and municipal ordinance violations defined in §479.350. Points shall be assessed to driver records for the moving traffic violations as if received by a municipal court. The DOR shall assess two additional points if the municipal court issued a certification of nonappearance and finds the respondent has presented no just cause for nonappearance.

Administrative Impact

To implement the proposed legislation, the DOR will be required to:

1. Work with Office of State Court Administrators Office (OSCA) and other court case management vendors to change the FTP file layout for convictions submitted to the DOR electronically. Additional testing with all courts utilizing a case management vendor will be required;
2. Update the Missouri Driver License System (MODL) to allow two additional points be assessed to a driver's record for nonappearance;
3. Update all Uniform Traffic Citations and Record of Conviction forms to add a field for the assessment of additional points for nonappearance; and
4. Update procedures, forms, and all other printed documentation.

FY 2020 - Driver License Bureau

Management Analysis Spec II	480 hrs. @ \$20.57 per hr.	= \$ 9,874
Administrative Analyst I	480 hrs. @ \$14.70 per hr.	= \$ 7,056
Revenue Manager	40 hrs. @ \$20.59 per hr.	= \$ 824
Total		= \$17,754

FY 2020 - Personnel Services Bureau

Administrative Analyst III	80 hrs. @ \$19.80 per hr.	= \$ 1,584
Management Analysis Spec I	80 hrs. @ \$18.42 per hr.	= \$ 1,474
Total		= \$ 3,058

Total Costs = \$20,812

ASSUMPTION (continued)

The proposed legislation will result in an unknown increase in the number of traffic convictions received and processed by the DOR. These convictions will be processed manually as the cities and villages do not have an established case management system to send through electronic processes or through the Office of State Court Administrator's (OSCA) electronic process with the DOR. A Revenue Processing Tech I (RPT I) can process 340 convictions per day. If the increase is more significant than anticipated additional FTE will be requested through the appropriations process.

Oversight assumes DOR will use existing staff and will not hire additional FTE to conduct these activities; therefore, Oversight will not reflect the administrative costs DOR has indicated on the fiscal note and will assume DOR can absorb these costs with existing resources.

There would also be a OA-ITSD cost estimate of \$13,284. This would be 177.12 hours of works at \$75 per hour. In summary, DOR assumes a cost of \$34,096 (\$20,812 + \$13,284) in FY 2020 for this proposal.

Oversight notes ITSD assumes that every new IT project/system will be bid out because all their resources are at full capacity. For this bill, ITSD assumes they will contract out the programming changes needed. ITSD estimates the project would take 177.12 hours at a contract rate of \$75 per hour for a total cost to the state of \$13,284. Oversight notes that an average salary for a current IT Specialist within ITSD is \$51,618, which totals roughly \$80,000 per year when fringe benefits are added. Assuming that all ITSD resources are at full capacity, Oversight assumes ITSD may (instead of contracting out the programming) hire an additional IT Specialist to perform the work required from this bill. Therefore, Oversight will range the fiscal impact from the ITSD estimated cost of contracting out the work (\$34,096) to hiring an additional FTE IT Specialist (roughly \$80,000 per year).

#In response to similar legislation from this year, HB 1045, officials at the **Office of the State Courts Administrator** assumed the proposed legislation modifies provisions relating to the administrative adjudication of certain municipal ordinance violations.

#HB 1045 (similar proposal) expands the municipalities which may establish an administrative tribunal to hear specified municipal violations instead of hearing them in a court. Moving violations and other non-specified violations would still be heard in a court. Municipalities are not required to establish an administrative tribunal but may choose to do so.

ASSUMPTION (continued)

#To the extent municipalities elect to establish an administrative tribunal, there would be fewer cases before the municipal or associate circuit courts. Accordingly, there may be reduced court costs and fees related to those cases. Any resulting change to the municipal court clerk costs would impact the municipality. Many of the fees assessed on such cases do not go to the Judiciary, but would impact the particular fund that receives the fee. However, the court automation fee, under section 488.027, RSMo, would no longer be collected by municipalities on cases sent to an administrative tribunal. Currently, only municipalities on the statewide court automation system are collecting the court automation fee. While the Judiciary is currently working toward getting municipal divisions across the state on the statewide court automation system, most municipalities are not yet on the system and do not currently charge the court automation fee. In FY 2018, municipal divisions that were collecting the court automation fee collected \$436,154 on all municipal cases including moving violations. To the extent these municipalities sent some of these cases, not including moving violations, to an administrative tribunal, there would be fiscal impact to the court automation fund in an amount less than \$436,154.

#**Oversight** sent a request for response to the Office of Prosecution Services and will update the fiscal note if necessary when a response is received

#**Oversight** notes that subsection 479.011.1(4) states that no costs shall be taxed in the event of a dismissal of the court case by the municipal court once the administrative tribunal accepts the case. Oversight assumes that this could reduce court fees that are charged. Oversight notes that collection of court costs goes to various state funds. Below is a list of some of those funds.

ASSUMPTION (continued)

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Fee/Fund Name	Fee Amount
Basic Civil Legal Services Fund	\$8.00
Clerk Fee	\$15.00 (\$12 State/\$3 County)
County Fee	\$25.00
State Court Automation Fund	\$7.00
Crime Victims' Compensation Fund	\$7.50
DNA Profiling Analysis Fund	\$15.00
Peace Officer Standards and Training (POST) Fund	\$1.00
Sheriff's Retirement Fund	\$3.00
Motorcycle Safety Trust Fund	\$1.00
Brain Injury Fund	\$2.00
Independent Living Center Fund	\$1.00
Sheriff's Fee	\$10.00 (County)
Prosecuting Attorney and Circuit Attorney Training Fund	\$4.00
Prosecuting Attorney Training Fund	\$1.00 (\$0.50 State/\$0.50 County)
Spinal Cord Injury Fund	\$2.00

ASSUMPTION (continued)

#If this section of the proposal is implemented, court fee collections could decrease (if waived) because administrative tribunals don't collect those fees. The table below shows the total collections by the various funds for FY 2018. The municipal collections column is how much was collected by the municipal courts for the funds shown. Oversight did not have all of the information regarding collections by the municipal courts for all of the funds below and has reflected an unknown amount for those funds. Oversight will reflect a potential loss of court fees received from the table below for the specific state funds that were collected by the municipal courts as well as an unknown loss to the other various funds. Oversight will also reflect a potential loss in court fees to municipalities of \$0 or unknown that could exceed the collection amounts received from clerk fees (\$6,522,123) and the sheriff's retirement fund (\$812,632) for this proposal (\$6,522,123 + \$812,632 = \$7,334,755).

<u>Fund #</u>	<u>Fund Name</u>	<u>Fee Rate</u>	<u>Fund Total Collections</u>	<u>Municipal Collections*</u>
0757	Basic Civil Legal Services Fund	\$ 8	\$2,871,727	Unknown
n/a	Clerk Fee	\$ 15	n/a	\$6,522,123
n/a	County Fee	\$ 25	n/a	Unknown
0270	State Court Automation Fund	\$ 7	\$4,385,294	\$436,154
0681	Crime Victims' Compensation Fund	\$ 8	\$4,685,907	\$3,924,201
0772	DNA Profiling Analysis Fund	\$ 15	\$1,170,953	Unknown
0867	(POST)Police Officer Standards and Training Fund	\$ 1	\$634,568	\$540,685
n/a	Sheriff's Retirement Fund	\$ 3	Unknown	\$812,632
0246	Motorcycle Safety Trust Fund	\$ 1	\$274,770	Unknown
0742	Brain Injury Fund	\$ 2	\$549,883	Unknown
0284	Independent Living Center Fund	\$ 1	\$274,486	Unknown
0913	Sheriff's Fee	\$ 10	\$2,565,533	Unknown
n/a	Prosecuting Attorney and Circuit Attorney Training Fund	\$ 4	Unknown	Unknown
0680	Prosecuting Attorney Training Fund	\$ 1	\$111,361	Unknown
0578	Spinal Cord Injury Fund	\$ 2	\$550,534	Unknown

*FY 2018 Office of State Court Administrators Annual Report
 (Table 94)

ASSUMPTION (continued)

#In response to similar legislation from this year, HB 1045, officials at the **State Tax Commission** assumed no fiscal impact from this proposal.

#In response to similar legislation from this year, HB 1045, officials at the **City of Kansas City** assumed no fiscal impact from this proposal.

#**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other cities were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

§§543.270 & 558.006 - Payment of fines by offenders

Officials at the **Office of Prosecution Services (MOPS)** assume a possible negative fiscal impact on MOPS and prosecutors since part of their funding for training and other items is a criminal cost surcharge under §56.765, RSMo. The waiver of costs would impact MOPS and county prosecutors as there is currently a \$1 surcharge in criminal and traffic cases that is split 50 cents to MOPS and 50 cents to county prosecutors. MOPS' share helps fund the operations of the office. Prosecutors use their share to help fund training and other expenses. Any waiver of those costs by a judge would have a negative impact, but the extent of that impact is difficult to determine.

Oversight notes that collection of court costs goes to various state funds also. Using the list of the various funds above, if a waiver of cost is implemented, those funds would have an unknown loss as well. Therefore, Oversight will reflect a \$0 to unknown loss in surcharge fees deposited into the MOPS fund and the various state funds for this proposal.

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

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities, counties and sheriff offices were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

ASSUMPTION (continued)

Oversight notes that removing the imprisonment option for persons who fail to pay fines and court costs may have a direct unknown negative impact on fine and fee collections as well as unknown savings on jail costs, depending upon actions/decisions of judges. Oversight will reflect a positive to negative unknown for local governments in the fiscal note.

Oversight also notes that all other means of collecting unpaid debts are available to judges.

Bill as a Whole

In response to the other sections of the bill not mentioned above, officials at the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials at the **Department of Corrections**, the **Office of the State Public Defender** and the **State Tax Commission** each assume no fiscal impact to their respective agencies from this proposal.

Oversight notes that the Office of the State Courts Administrator, the Department of Corrections, the Office of the State Public Defender and the State Tax Commission each has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE			
<u>Cost</u> - DOR/OA-ITSD - establishing administrative adjudication system for cities - \$479.011 (ranged from contracting out programming (\$13,284) to hiring additional FTE IT Specialist) p. 4	(\$13,284) to <u>(\$66,632)</u>	\$0 to <u>(\$80,631)</u>	\$0 to <u>(\$81,312)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE	(\$13,284) to <u>(\$66,632)</u>	\$0 to <u>(\$80,631)</u>	\$0 to <u>(\$81,312)</u>
Estimated Net FTE Change for General Revenue	0 or 1FTE	0 or 1 FTE	0 or 1 FTE
 #STATE COURT AUTOMATION FUND			
<u>#Loss</u> - in funding from potential decrease in surcharge fees collected if there are cases transferred to an administrative tribunal (\$479.011) p. 5	<u>\$0 to (\$436,154)</u>	<u>\$0 to (\$436,154)</u>	<u>\$0 to (\$436,154)</u>
#ESTIMATED NET EFFECT ON THE STATE COURT AUTOMATION FUND	\$0 to <u>(\$436,154)</u>	\$0 to <u>(\$436,154)</u>	\$0 to <u>(\$436,154)</u>
 #CRIME VICTIMS' COMPENSATION FUND			
<u>#Loss</u> - in funding from potential decrease in surcharge fees collected if there are cases transferred to an administrative tribunal (\$479.011) p. 7	\$0 to <u>(\$3,924,201)</u>	\$0 to <u>(\$3,924,201)</u>	\$0 to <u>(\$3,924,201)</u>
#ESTIMATED NET EFFECT ON THE CRIME VICTIMS' COMPENSATION FUND	\$0 to <u>(\$3,924,201)</u>	\$0 to <u>(\$3,924,201)</u>	\$0 to <u>(\$3,924,201)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
#POST FUNDS			
<u>#Loss</u> - in funding from potential decrease in surcharge fees collected if there are cases transferred to an administrative tribunal (§479.011) p. 7	<u>\$0 to (\$540,685)</u>	<u>\$0 to (\$540,685)</u>	<u>\$0 to (\$540,685)</u>
#ESTIMATED NET EFFECT ON THE POST FUNDS	<u>\$0 to (\$540,685)</u>	<u>\$0 to (\$540,685)</u>	<u>\$0 to (\$540,685)</u>
MISSOURI OFFICE OF PROSECUTION SERVICES FUND			
<u>Loss</u> - MOPS - in funding from potential decrease in surcharge fees collected if there is a waiver of costs (§§543.270, 558.006)	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON THE MISSOURI OFFICE OF PROSECUTION SERVICES FUND	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
VARIOUS STATE FUNDS			
<u>#Loss</u> - in funding from potential decrease in surcharge fees collected if there are cases transferred to an administrative tribunal (§479.011) p. 7	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
<u>Loss</u> - in funding from potential decrease in surcharge fees collected if there is a waiver of costs (§§543.270, 558.006)	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL POLITICAL SUBDIVISIONS			
#Loss - in funding from potential decrease in surcharge fees collected if there are cases transferred to an administrative tribunal (§479.011) p. 7	\$0 or (Unknown, Could Exceed \$7,334,755)	\$0 or (Unknown, Could Exceed \$7,334,755)	\$0 or (Unknown, Could Exceed \$7,334,755)
<u>Loss</u> - on fine and fee collections (§§543.270, 558.006)	(Unknown)	(Unknown)	(Unknown)
<u>Savings</u> - on jails not utilized on non-payment offenders (§§543.270, 558.006)	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
#ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	Unknown to (Unknown, Could Exceed <u>\$7,334,755</u>)	Unknown to (Unknown, Could Exceed <u>\$7,334,755</u>)	Unknown to (Unknown, Could Exceed <u>\$7,334,755</u>)

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

§479.011

This act modifies provisions relating to the administrative adjudication of certain municipal ordinance violations.

Currently, only the cities of St. Louis, Kansas City, St. Joseph, and Springfield are authorized to establish, by order or ordinance, an administrative system for adjudicating housing, property maintenance, nuisance, parking, and other civil, nonmoving municipal code violations. This act allows any city or village to establish, by ordinance, an administrative adjudication system for certain violations including nonmoving traffic violations, minor traffic violations, and municipal ordinance violations. The city or village shall designate a hearing officer for the administrative system who shall be a lawyer licensed in Missouri and may be the municipal judge.

A municipal judge may refer any case pending to the administrative tribunal. The dismissal of the municipal case shall occur upon the administrative tribunal notice of acceptance and no costs shall be taxed for such an event. A municipal judge may also forward a certification of nonappearance with the case.

FISCAL DESCRIPTION (continued)

The administrative tribunal is required to serve a notice with certain requirements upon the respondent before an administrative adjudication may be commenced. A respondent, who fails to acknowledge receipt of the notice, may be taxed the cost for notice by personal service or service by registered mail. After service has been properly affected, the administrative tribunal may proceed with a hearing regardless of the respondent's participation.

The hearing conducted by the administrative tribunal need not be recorded and shall not be considered a court of record. Additionally, upon conclusion of the hearing, the hearing officer shall enter written findings. This act repeals the provisions requiring the administrative tribunal to adopt policies and procedures regarding the administrative adjudication process.

This act allows administrative tribunals to impose a fine for a violation of any ordinance within its jurisdiction. Additionally, the administrative tribunal may assess the reasonable costs of the hearing or prosecution to the respondent upon a finding of a violation. Any final decision of the administrative tribunal shall constitute a conviction for the purposes of points assessed by the Department of Revenue, which may be assessed in the same manner as municipal court proceedings. Additionally, upon conviction and if authorized, two additional points shall be assessed if a certification of nonappearance is issued and no just cause was provided by the respondent.

Currently, a lien may be imposed upon any respondent who has entered a plea of nolo contendere, plead guilty, or found guilty of a municipal court violation. This act provides that a lien may be imposed only when the respondent has a judgment entered against them.

Additionally, a special tax bill may be issued to collect the judgement issued rather than to collect fines issued for housing, property maintenance, and nuisance code violations. A special tax bill issued shall have the same priority, enforcement, and treatment as any regular tax bill on real or personal property.

§§543.270 & 558.006

Currently, associate circuit judges have the ability to commute fines and costs against defendants who are unable to pay when the defendant requests to be imprisoned in the county jail. The fine shall be credited at the rate of \$10 for each day's imprisonment. This bill repeals that language.

The bill repeals language that allows the court, upon a motion by the prosecuting attorney or by its own motion, to require a defendant to show cause as to why he or she should not be imprisoned for failure to pay and allows the court to imprison such defendant, if no good cause is shown, for various lengths depending on whether the offense was a misdemeanor or a felony.

FISCAL DESCRIPTION (continued)

Instead, when a defendant fails to pay a fine or an installment, the fine or installment may be collected by any means authorized for the collection of money judgments, or it may be waived at the discretion of the judge. In no event can the recovery of costs incurred by a municipality or county for the detention, imprisonment, or holding of a person be the subject of any condition of probation, and the failure to pay costs cannot be the only basis for the issuance of a warrant.

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 Revenue
Office of the State Courts Administrator
Department of Corrections
Office of the State Public Defender
Office of Prosecution Services
State Tax Commission
Jackson County Sheriff's Office
Boone County Sheriff's Department
City of Kansas City



Kyle Rieman
Director
May 3, 2019

Ross Strobe
Assistant Director
May 3, 2019