

COMMITTEE ON LEGISLATIVE RESEARCH
 OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2922-02
Bill No.: HB 1312
Subject: Crimes and Punishment
Type: Original
Date: February 5, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	Less than (\$100,000)	Less than (\$100,000)	Less than (\$100,000)
Total Estimated Net Effect on <u>All</u> State Funds	Less than (\$100,000)	Less than (\$100,000)	Less than (\$100,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Prosecution Services** assume the proposed legislation would have no fiscal impact on prosecutors.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of State Public Defender** assume existing staff could provide representation for those cases arising where indigent persons were charged with the enhanced crime of repeat sexual misconduct. Last FY, the State Public Defender provided representation in 96 cases of sexual misconduct and 50 cases of sexual misconduct 2nd degree. However, passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

Officials from the **Department of Corrections (DOC)** assume this bill widens the net on offenders who could be charged with persistent Sexual Misconduct (SM) I and II by adding "pleaded guilty to" to the former prior conviction criteria language. Actors who previously pleaded guilty to offenses in this chapter could have been given a suspended imposition of sentence (SIS) probation and it would not have been considered a conviction. Given this proposed change in statute, however, more offenders would meet the criteria as a prior offender. Offenders who would have been charged with a misdemeanor A for SM I might now be charged with a D felony and could serve prison time. Guilty pleas and convictions in other states or jurisdictions would also constitute an offense pursuant to this proposal, but DOC has no data on these offenders for comparison.

Over the last three fiscal years, there has been an average of 3 prison admissions to DOC for SM I. Half of those receiving probation for a sex offense in FY01 had an SIS, so the number admitted to prison could double pursuant to the change in language. The average sentence for prison admissions for SM I is 4 years. In FY01 SM releases served 50% of their sentence. Therefore the impact of these additional prison admissions for SM I could double the average 3 admissions, bringing it to 6.

There were 8 probation openings for prior and persistent offenders and 4 openings for first time offenders under the SM II charge. Any increase in probation cases would be offset by the number of prison admissions who formerly received probation.

ASSUMPTION (continued)

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY01 average of \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender).

At this time, the DOC is unable to determine the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Given the current data, it is assumed the impact would be less than \$100,000 per year for the DOC.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
Costs – Department of Corrections Incarceration/Probation costs	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<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.

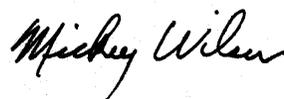
DESCRIPTION

The proposed legislation would revise sexual misconduct in the first degree to include previously pleading guilty to an offense of sexual misconduct in the first degree or pleading guilty to or being convicted of an offense in another state or jurisdiction which would constitute sexual misconduct in the first degree if it had been committed in Missouri. The proposal also revises sexual misconduct in the second degree to include pleading guilty to sexual misconduct in the second degree or pleading guilty to or being convicted of an offense in another state or jurisdiction which would constitute sexual misconduct in the second degree if it had been committed in Missouri.

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

SOURCES OF INFORMATION

Office of Prosecution Services
Office of State Courts Administrator
Office of State Public Defender
Department of Corrections



Mickey Wilson, CPA
Acting Director

February 5, 2002