

COMMITTEE ON LEGISLATIVE RESEARCH
 OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3114-01
Bill No.: HB 1225
Subject: Children and Minors; 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
None			
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

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 5 pages.

FISCAL ANALYSIS

ASSUMPTION

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 Prosecution Services** assume the proposed legislation would have no fiscal impact on prosecutors.

Officials from the **Office of State Public Defender** assume existing staff could continue to provide representation in cases arising where indigent persons were charged with statutory rape or sodomy or child abuse. However, these cases could become more time consuming due to the fact that anyone convicted would now have to serve at least 85% of their time. Last FY, the State Public Defender System provided representation in 287 statutory rape cases, 302 statutory sodomy cases, and 168 child abuse cases. 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 the proposed legislation changes the definition of dangerous felony to include statutory rape and sodomy when the victim is less than 12 at the time the offense was committed and child abuse pursuant to Section 526.060.1(2), RSMo.

Section 556.036

Changes proposed in this bill would make Statutory Rape and Sodomy in the first degree a dangerous felony if the victim were less than 12 years of age. Information about the age of the victim is not available, so the exact impact cannot be determined. There were a large number of statutory rape and sodomy cases serving time in FY01, 640 total. In addition, there were a total of 146 new admissions for Statutory Rape and Sodomy in FY00. If a large percentage of such cases involved a victim under 12, the effect could be significant. A person with a Dangerous Felony conviction must serve 85% of the sentence before being paroled. Based on the average time currently served, the time in prison would increase 12.74 months for Statutory Rape and 14.25 months for Statutory Sodomy.

An estimate of the potential impact was made assuming that 10% of the admissions for Statutory Rape and Sodomy in FY00 involved a victim under 12 years of age. It would result in a need for 7.5 additional beds in the fourth year after its passage and 16.6 additional beds in each of the subsequent years.

ASSUMPTION (continued)

Data was not available on adding child abuse (by photography or filming of a sexual act) as a dangerous felony at the preparation time of this fiscal note. The unknown costs are not included in this note, however it is assumed any increased time would probably have its effect in the long range since offenders would already receive at least a C felony charge and would be serving prison time.

It is estimated the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- ▶ \$35.78 (FY01 cost) inmate per capita costs with an inflation rate of 3% per each subsequent year.

At this time, the DOC is unable to determine the potential need for additional capital improvements. 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.

The following charts detail the estimated fiscal impact for the scope of the fiscal note (FYs 2003, 2004, and 2005), the estimated ten-year fiscal impact, and the assumptions used in determining these costs:

New Dangerous Felonies/Increase Minimum Time Served Assumptions			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	35.78	365	13,060
Construction (C4 or C5 \$55,000)			0
Emergency Housing	0.00	365	0
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

ASSUMPTION (continued)

	End FY Population	Average Population	Emer Hsng Expense	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2002	0	(current year which will have no costs incurred)				
FY 2003	0	0	0	0	0	0
FY 2004	0	0	0	0	0	0
FY 2005	0	0	0	0	0	0
FY 2006	8	4	0	52,240	0	58,797
FY 2007	17	13	0	169,780	0	196,822
FY 2008	17	17	0	222,020	0	265,103
FY 2009	17	17	0	222,020	0	273,057
FY 2010	17	17	0	222,020	0	281,248
FY 2011	17	17	0	222,020	0	289,686
FY 2012	17	17	0	222,020	0	298,376
Total Ten-Year Fiscal Impact:						1,663,089

In summary, the DOC anticipates a total ten-year cost of \$1,663,089. The DOC does not anticipate the costs to be incurred until FY 06, which is beyond the scope of the fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</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.

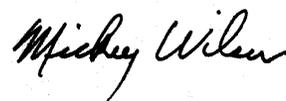
DESCRIPTION

The proposed legislation revises the definition of dangerous felony to include statutory rape in the first degree and statutory sodomy in the first degree when the victim is less than 12 years of age at the time the offense was committed, and abuse of a child by photographing or filming a child less than 18 years of age engaging in a prohibited sexual act or the simulation of a prohibited sexual act or causing or knowingly permitting a child to engage in a prohibited sexual act or in the simulation of a prohibited sexual act for the purpose of photographing or filming the act.

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



Mickey Wilson, CPA
Acting Director

February 5, 2002