

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3699-05
Bill No.: SCS for HBs 1489 & 1850
Subject: Counties; Crimes and Punishment; Victims of Crime
Type: Original
Date: May 6, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(Unknown) to \$1,900,000	(Unknown) to \$1,900,000	(Unknown) to \$1,900,000
School Moneys	\$0	\$0	\$0
Office of Prosecution Services	\$170,000	\$170,000	\$170,000
MoSMART*	\$0	\$0 or (Unknown) to Unknown	\$0 or (Unknown) to Unknown
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown) to \$2,070,000	(Unknown) to Unknown	(Unknown) to Unknown

***Subject to Appropriations**

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 to Unknown	\$0 to Unknown	\$0 to Unknown

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 13 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Commissioner’s Office** and the **State Treasurer’s Office** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of Administration – Division of Budget and Planning (BAP)** assume the proposal should not result in additional costs or savings to BAP. The proposed legislation would increase total state revenue.

In response to a previous version of this proposal, the **Phelps County Clerk** assumes the revenues generated, based on \$3.00 fee, would be \$5,000 per year. The costs incurred would also be \$5,000. The county would experience offsetting revenues and costs, resulting in no fiscal impact.

County Crime Reduction Fund (§§50.550, 50.555, 558.918, & 559.021)

Officials from the **Office of State Courts Administrator (CTS)** assume the legislation would authorize county commissions to create local crime reduction funds and authorize courts to require misdemeanor defendants to pay into the local funds amounts up to \$1,000 as part of a restorative justice program. The proposal does not specify who would be responsible for receiving and accounting for what would be in most cases installment payments. Since the Sheriff and Prosecutor would be the beneficiaries of the fund, CTS officials assume one or the other of these offices would provide these services, and state-paid court clerks would not be required to do this. If this assumption is valid, there would be no appreciable state cost. However, if the court clerks are required to provide this service, there would be a state cost in direct proportion to the volume of transactions.

CTS officials assume traffic cases are usually misdemeanors, and if as an alternative to a traffic conviction, a defendant can get a suspended sentence for payment into the crime reduction fund, the potential volume could be in the hundreds of thousands of cases.

CTS officials assume if cases that would otherwise have resulted in a conviction are shifted to a suspended imposition or execution of sentence, it is likely to result in the loss of revenue from fines to schools, crime victims’ compensation, law enforcement training, and other earmarked funds.

CTS cannot predict what changes in the practice of law and the exercise of prosecutorial discretion may result from the passage of the proposal.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume the fiscal impact due to passage of this bill is unknown. This bill authorizes the creation of a county crime reduction fund and probationers can be required to pay up to \$1,000 to the fund as a condition of probation. Proposed language in §558.019 refers only to misdemeanor probation, however §559.021 does not appear to be limited to only misdemeanors. Willful failure to pay could result in the revocation of probation and incarceration.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(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 additional 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 incarceration or probation would result in additional costs. The exact fiscal impact to the DOC is unknown and cannot be estimated.

In response to a similar proposal from the 2001 session (HB 835), the **Callaway County Circuit Clerk** stated that if the contribution to the Crime Reduction Fund is in addition to the court cost and fine then there would be no loss of income to any fund, however, if the contribution is in lieu of the court cost and fine then there would be a loss of revenue to the county, schools, crime victim compensation fund, law enforcement training fund, Prosecutor training fund, sheriff's retirement, court automation fund, etc. Officials assume that both court cost and fines would be assessed.

Oversight assumes that fiscal impact would depend upon several factors: 1) The County Commission would need to establish the Crime Reduction Fund, as allowed by this proposal; and 2) The amount of fiscal impact would depend on the number of cases the Court would suspend and require payment into the Crime Reduction Fund.

ASSUMPTION (continued)

Oversight assumes that to the extent there is a reduction in fines on the local level, schools would receive more money in state aid due to the school aid formula. Therefore, the loss of fine revenues would be subsidized by the State's General Revenue Fund.

Increase Surcharge from \$1.00 to \$1.50 (\$56.765)

Officials from the **Office of Prosecution Services** assume the change will cause an increase in state funds. Last year, the existing fee collected over \$184,000 toward state funds. This fiscal year, it is assumed that the amount will be lower, which is projected to be about \$170,000 due to a documented decrease in court filings from Office of State Courts Administrator.

Oversight assumes the proposal will double the existing fee collected. Oversight assumes the revenue increase would be approximately \$170,000 in each fiscal year to the Office of Prosecution Services Fund.

Remove \$50,000 Limit Held in County Fund to be used by Sheriff (\$57.280)

In response to a similar proposal (HB 1850), officials of the **Jefferson County Commission** assumed no fiscal impact.

In response to a similar proposal (HB 1850), officials of **Warren County** assumed the County's General Revenue Fund would lose money whenever amounts would exceed \$50,000. Officials stated that they are currently below the \$50,000 level. Therefore, there would be no fiscal impact at this time.

In response to a similar proposal (HB 1850), officials of **Greene County** assumed that the County's General Revenue Fund would lose revenues that would be in an amount of approximately \$1,000,000 annually.

Oversight assumes in any county whose Sheriff collects fees in excess of \$50,000 that county's General Revenue Fund would lose the excess amount of fees over \$50,000. Based on the limited number of responses some county's Sheriffs do not collect \$50,000 annually and would have no fiscal impact, while other counties would lose a substantial amount of revenue from their General Revenue Fund. Therefore, Oversight will show fiscal impact on a statewide basis as \$0 or Unknown.

ASSUMPTION (continued)

Additional \$20 Fee for Penalties, Fines, and Sanctions Not Paid Within 30 Days (§488.5021)

Officials of the **Office of State Courts Administrator (CTS)** assume Section 488.5021 would allow a court to assess an additional \$20 fee for penalties, fines, and sanctions not paid in full within 30 days of imposition. Depending on the rate of assessment and collection, the range of possible collections is from \$1 million to \$1.9 million. The first figure, \$1 million, is based upon a 20% to 25% collection on misdemeanor and felony cases, and 10% on traffic. The second figure, \$1.9 million, is based on a collection rate of 56% of felonies and 75% of misdemeanors, and is the less likely amount of the two estimates.

MoSMART (§650.350)

In response to a previous version of this proposal (SB 1095), officials from the **Christian County Sheriff Department** assumed their department could receive revenues up to \$100,000 per year for up to three consecutive years if they applied for and received a grant.

In response to a previous version of this proposal (SB 1095), officials from the **St. Louis County Police Department** assumed their department could experience a savings in the clean-up of methamphetamine labs, including consumable supplies in the amount of \$20,000 per year (\$250 per lab x 80 labs).

Officials from the **State Auditor's Office (SAU)** assume they may be chosen to complete the audit required by Section 650.350.4. Increasing the SAU's audit responsibilities would require .5 FTE Auditor II at \$35,000 per year, plus related fringe benefits, equipment and expenses. The SAU estimates the cost of the proposed legislation to be \$28,757 for 10 months of FY 03; \$33,756 in FY 04; and \$34,643 in FY 05.

Oversight assumes the SAU could absorb the cost of the proposal within existing resources. If the SAU experiences an increase that would justify additional FTE, the SAU could request funding through the appropriation process.

Officials from the **Department of Public Safety (DPS) – Director's Office** assume the proposal creates a team called "MoSMART" within the DPS. The team is made up of five members that shall be sheriffs. The DPS shall administer MoSMART, which shall consist of conducting audits, monitoring, programmatic assistance with grants, etc. It is also calling for an annual audit to be done by the State Auditor's Office. This legislation is creating a separate fund called the MoSMART fund, which shall not lapse into general revenue.

In order to perform the duties required by this legislation, the DPS would require two additional FTE: one Program Representative I (at \$30,204 per year, plus fringe benefits, equipment and

ASSUMPTION (continued)

expense) to review applications for grants, assist in general program duties, and monitor programs as needed; and one Clerk Typist III (at \$23,184 per year, plus fringe benefits, equipment and expense) to provide clerical support for the staff of MoSMART and MoSMART members.

The DPS would also require rental space for an offsite facility because the Director's office no longer has adequate space for additional employees. The DPS estimates the cost for this rental space to be \$5,400 per year, plus \$10,000 per year for renovations.

DPS estimates the cost of this proposal to be \$138,968 in FY 03, \$119,653 in FY 04, and \$121,533 in FY 05.

DPS estimates the number of MoSMART funds applications filed annually will exceed 27. Based on this estimate, **Oversight** assumes the DPS will require 2 FTE (1 Program Specialist and 1 Clerk Typist III) to administer the MoSMART program. Salaries have been adjusted to more closely reflect actual starting salaries. Oversight assumes the 2 FTE would be housed within existing facilities. Therefore, no additional rent, renovation, janitorial, utility, or offsite computer expenses would be incurred. Oversight has adjusted equipment and expense to comply with the Office of Administration's Expense and Equipment Guidelines. Oversight assumes, based on information received from the Cape Girardeau Sheriff, MoSMART will be federally funded through December 31, 2003. Therefore, Oversight assumes the DPS would incur costs for 6 months of FY 04 and 12 months of FY 05.

Setoff of Income Tax Refund (Section 1)

Officials from the **Department of Revenue (DOR)** assume this legislation will have little direct impact on their agency. The Division of Taxation would experience an administrative impact. The proposal would be a year end change and the Division of Taxation would submit a tape to the DOR to match against the refunds prior to issuance. The tapes would need to be updated at a frequency set by the DOR and the county agency. The DOR expects minimal impact as a result of this legislation.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this bill. DESE does not know how much additional money might be collected by the DOR to distribute to schools. Any increase in this money distributed to schools becomes a deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will ASSUMPTION (continued)

simply be additional money). An increase in the deduction (all other factors remaining constant)

reduces the cost to the state of funding the formula with a proration factor of 1.00.

In response to a similar proposal, officials from the **Department of Labor and Industrial Relations (DOLIR)** assume Office of State Courts Administrator may seek a setoff of an individual's state income tax refund by the Department of Revenue if their crime victims' penalties equal \$25 or more and may eliminate the authority of the DOLIR to review criminal case files in situations where the judicial proceedings were sealed by a judge. DOLIR cannot determine the net fiscal gain to the crime victims' compensation fund from these proposed changes because the DOLIR has no means to determine the number of offenders who receive Missouri income tax refunds.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Savings</u> – Decreased Transfers to State School Money Fund (§488.5021)	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
<u>Costs</u> – Department of Corrections Incarceration/Probation costs	(Unknown)	(Unknown)	(Unknown)
<u>Transfer out</u> – to State School Moneys Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Transfer out</u> – to MoSMART Fund (§650.350)*	\$0	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Unknown) to <u>\$1,900,000</u>	(Unknown) to <u>\$1,900,000</u>	(Unknown) to <u>\$1,900,000</u>

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
STATE SCHOOL MONEYS FUND			
<u>Savings</u> – Decreased Distributions to School Districts (\$488.5021)	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
<u>Loss</u> – Decreased Transfers from General Revenue Fund (\$488.5021)	(Unknown to \$1,900,000)	(Unknown to \$1,900,000)	(Unknown to \$1,900,000)
<u>Transfer in</u> – from General Revenue Fund	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Costs</u> – Transfer to Local School Districts	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
OFFICE OF PROSECUTION SERVICES FUND			
<u>Revenue</u> – Increased surcharge (\$56.765)	<u>\$170,000</u>	<u>\$170,000</u>	<u>\$170,000</u>
ESTIMATED NET EFFECT ON OFFICE OF PROSECUTION SERVICES FUND	<u>\$170,000</u>	<u>\$170,000</u>	<u>\$170,000</u>

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
MoSMART FUND (\$650.350)			
<u>Transfer in</u> – from General Revenue			
Fund*	\$0	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> – Department of Public Safety**			
Personal Service (2 FTE)	\$0	(\$25,089)	(\$51,432)
Fringe Benefits	\$0	(\$9,035)	(\$18,521)
Equipment and Expense	<u>\$0</u>	<u>(\$21,010)</u>	<u>(\$7,250)</u>
Total Costs – DPS**	\$0	(\$55,134)	(\$77,203)
<u>Costs</u> – MoSMART			
Distribution to local law enforcement agencies***	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON MoSMART FUND	<u>\$0</u>	\$0 or (Unknown) to <u>Unknown</u>	\$0 or (Unknown) to <u>Unknown</u>

***Subject to Appropriations.**

****Subject to Appropriations, shall be no less than one percent and not exceed two percent of the Fund.**

*****Subject to Appropriations, shall be at least fifty percent but not more than one hundred percent of the Fund annually.**

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Increase in Revenue</u> – to Local Crime Reduction Fund	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</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 allow county commissions to create county crime reduction funds and would specify the purposes for which the money in the funds can be spent (§§50.550 & 50.555).

The proposal would increase the surcharge assessed as court costs on filing all criminal cases from \$1.00 to \$1.50. \$1.00 would go to the Missouri Office of Prosecution Services Fund (this amount was previously \$.50) and the remaining \$.50 would continue to go to the county treasurer for additional training for circuit and prosecuting attorneys and their staffs (§§56.765 & 488.5017).

The proposal would remove the \$50,000 limit from the amount of money, other than from regular budget allocations or land sale proceeds, that may be held in a county fund for use by the Sheriff. Currently, the law requires that funds in excess of \$50,000 go to the County's General Revenue Fund (§57.280).

The proposal would define “court” for purposes of income tax credits and refunds (§143.782); allow the state courts administrator to seek a setoff of an income tax refund upon an individual’s failure to pay court costs, fines, fees, or other sums ordered by the court as payable to the state (Section1); and allow a court to assess an additional \$20 fee for penalties, fines, and sanctions not paid in full within 30 days of imposition (§488.5021).

The proposal would allow the court to order restorative justice methods in cases where there is a suspended imposition or execution of sentence and to order individuals who have a suspended imposition or execution of sentence for a misdemeanor to make a payment of up to \$1,000 to the county crime reduction fund (§558.019).

DESCRIPTION (continued)

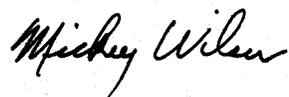
The proposal would allow the court to order a payment of up to \$1000 to the county crime reduction fund as a condition of probation. A judge could only order such a condition of probation if the county crime reduction fund was established prior to sentencing. A judge could not have any direct supervisory or administrative over a fund to which he or she orders probationers to make payments. A defendant could refuse probation conditioned on the performance of free work or probation conditioned on a payment to a county crime reduction fund. Probation could not be revoked solely for failure to make payments to the fund, except under certain circumstances (§559.021).

The proposed legislation would create the "Missouri Sheriff's Methamphetamine Relief Team" (MoSMART), within in the Department of Public Safety. This team would consist of five sheriffs, who would each serve a two-year term and elect a chairman. The proposal also would create the MoSMART Fund. This fund would be available on an application basis to law enforcement entities and task forces. Applications would be evaluated based upon the level of funding designated for methamphetamine enforcement before 1997 and upon current need and circumstances (§650.350).

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 affect Total State Revenue.

SOURCES OF INFORMATION

Office of Prosecution Services
Office of State Courts Administrator
Department of Corrections
Department of Revenue
State Treasurer's Office
Office of Administration
 – Commissioner's Office
 – Division of Budget and Planning
Department of Elementary and Secondary Education
Department of Public Safety
 – Director's Office
State Auditor's Office
Phelps County Clerk
Christian County Sheriff Department
St. Louis County Police Department
Jefferson County Commission
Warren County
Greene County



Mickey Wilson, CPA
Acting Director

May 6, 2002