

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4020-04  
Bill No.: HCS for HBs 1577, 1760, 1433, 1430, 1029 & 1700  
Subject: Omnibus Crime Bill  
Type: Original  
Date: April 15, 2002

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(\$1,097,335 to Unknown)	(\$503,800 to Unknown)	(\$514,921 to Unknown)
State School Money*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$1,097,335 to Unknown)</b>	<b>(\$503,800 to Unknown)</b>	<b>(\$514,921 to Unknown)</b>

\*Offsetting Transfer in and Costs of \$0 to Unknown

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Local Government</b>	<b>(Unknown) to Unknown</b>	<b>(Unknown) to Unknown</b>	<b>(Unknown) to Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 11 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Public Safety – Division of Fire Safety, – Missouri State Water Patrol**, and the **Department of Economic Development – Division of Professional Registration** assume assumes the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of Attorney General** assume the costs of the proposed legislation could be absorbed within existing resources.

#### County Crime Reduction Fund (§§50.550 and 50.555)

Officials from the **Office of State Courts Administrator (CTS)** assume the additional crimes that are created may cause an increase in the workload of the courts, but CTS cannot quantify that increase at this time. A significant increase in workload will be addressed in future budget requests. CTS assumes that some cases may be prolonged due to the increase in penalties.

The legislation would also 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 in most cases be installment payments. Since the sheriff and prosecutor would be the beneficiaries of the fund, we will assume they would provide these services through local funds, 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.

Traffic cases are technically 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.

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 the 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)

**Oversight** assumes the fiscal impact of Section 50.555 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. 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.

HIV/Sexually Transmitted Disease Testing and Victim Notification (§§191.656, 191.659, and 191.677)

Officials from the **Department of Health and Senior Services (DHSS)** assume the proposal does not indicate who would incur the cost of testing which would be required to implement the law. Assuming that the State Public Health Laboratory would be required to do this testing, the following methodology was used:

Missouri Department of Corrections reports that an estimated 650 sexual offenders enter the prison system per year. Based on the 650 convicted, it is estimated that there would be a minimum of 1,000 defendants being arrested and tested. The following lab test costs were used:

HIV	\$7.50
Hepatitis B	\$19.01
Gonorrhea/Chlamydia	\$10.31
Syphilis	<u>\$6.23</u>
Total cost of test per defendant	\$43.05
Total cost x 1000 defendants	\$43,050.00

Hepatitis C testing is not available through the State Public Health Laboratory. Therefore, this cost will be incurred at the local government level.

Annual requests by prosecutors for DHSS records: 10 requests annually x HPR II salary (1 hour) @ \$13.00 per hour x 15 copies = \$150.00. These records consist of lab reports, disease case reports, field records, and interview records.

The DHSS estimates the cost of the proposal to be \$36,000 in FY 03; \$44,497 in FY 04; and \$45,831 in FY 04. These are the costs for lab tests and related expenses.

ASSUMPTION (continued)

Passing Bad Check/Check Handling Costs (§570.120)

Officials from the **Office of Prosecution Services** assume the proposed legislation would have an unknown impact on prosecutors in that it would mandate they collect merchant fees. While some prosecutors collect this fee, others do not. As this would mandate collection of the merchant fee, it would increase the caseload of prosecutors who do not currently collect the fee.

Resisting Arrest, Stop, or Detention (§575.150)

Officials from the Department of Corrections (DOC) assume this bill enhances the crime of resisting arrest if the actor flees a vehicle stop as defined. Penalty provisions for this crime would be raised to a class D felony. In FY 01, there were 15 probation openings for misdemeanor resisting arrest. Those individuals could now be sent to prison. In FY 01, 46% (seven) of D felons were sentenced to a prison term and the average sentence was 8.7 months. The remaining 8 would serve 120-day sentences. This calculates to about 8 offenders per year. This cost could be offset by the previous misdemeanor costs. Supervision by the DOC through incarceration or probation would result in additional costs. Although the exact fiscal impact is unknown, DOC estimates the potential cost in excess of \$48,444 in FY 03; \$99,042 in FY 04; and \$101,187 in FY 05.

DNA Profiling System/DNA Sample for Certain Offenses (§§650.050 and 650.055)

Officials from the **Office of Prosecution Services** deferred to local prosecutors. The **Jackson County Prosecuting Attorney's Office** assumes the impact on prosecutors would be negligible as it would take years to get the DNA profiling system up and running.

Officials from the **Office of State Public Defender (SPD)** stated in Fiscal Year 2001, the State Public Defender provided representation in 76,786 cases. 1/3 of all crimes committed in Missouri remain unsolved. Assuming the same percent of persons would require Public Defender representation, if all crimes had been charged, the State Public Defender System would have had an additional 25,592 cases. Further assuming that DNA sampling would result in 20% of the uncharged cases now being charged, the State Public Defender caseload would increase by 5,118 cases. Using the same percentage caseload breakdown as last fiscal year, the following represents the number of felonies, misdemeanors, juvenile cases, and probation violations for which the public defender would be responsible for representation:

ASSUMPTION (continued)

A – B Felony	8.739% or	447	additional cases
C – D Felony	31.141% or	1,597	additional cases
Misdemeanor	30.483% or	1,560	additional cases
Juvenile	5.967% or	305	additional cases
Probation Violations	23.545% or	<u>1,205</u>	additional cases
Total additional cases		5,114	

These additional cases will require 15 FTE Assistant Public Defenders (each at \$35,328 per year, plus fringe benefits, equipment and expenses), 5 FTE Paralegal Investigators (each at \$24,132 per year, plus fringe benefits, equipment and expenses), and 3 FTE Secretaries (each at \$19,764 per year, plus fringe benefits, equipment and expenses). The SPD estimates the cost of the proposal to be \$1,057,236 for 10 months of FY 03, \$1,151,906 for FY 04, and \$1,181,391 for FY 05.

**Oversight** assumes that the number of cases generated from the DNA profiling system and DNA sampling for certain offenses would be small. Therefore, Oversight assumes the Office of State Public Defender could absorb the cost of defending the indigent accused within existing resources.

Officials from the **Department of Public Safety – State Highway Patrol** (MHP) assume their Criminal Laboratory Division would require an additional FTE as a result of the proposed legislation. The FTE would be a Laboratory Evidence Technician (at \$21,720 per year plus fringe benefits, equipment and expense) and job responsibilities would be to track all Missouri felony convictions as defined by the database statute; schedule with the Department of Corrections and Probation and Parole officers to collect required offenders; travel throughout the state to collect required offenders; log in and inventory samples in the computer; maintain all paperwork/documentation for samples; retrieves samples required for DNA analysis; and perform other duties as assigned. The FTE would require standard office equipment, plus lab coats and hepatitis B shots.

In addition to the FTE, the Lab would also require hardware, software and equipment for DNA PCR technologies compatible with the FBI's national program, supplies and kits for collection and DNA analysis of felony convictions, proficiency and continuing education as mandated by the FBI QA Standards, and maintenance agreements for two 3100 Genetic Analyzers. In the first year, there would be approximately 36,000 felony convictions analyzed. Following the first year, there would be an anticipated 3,600 new individuals per year that would need DNA analysis.

ASSUMPTION (continued)

Cost of computer hardware/software and equipment for DNA PCR technologies compatible with the FBI's national program	\$300,607 (one-time)
Supplies/kits for collection & DNA analysis of felony conviction (36,000*\$23)	\$828,000
Supplies/kits for collection & DNA analysis of misdemeanor convictions	Unknown
Funding for proficiency tests and continuing education	\$17,917(21,500*10/12)*
Maintenance agreement for two 3100 Genetic Analyzers (1 year agreement)	\$12,000(14,400*10/12)*
FTE Equipment and expenses	\$4,352
<b>Total Start-Up Costs</b>	<b>\$1,162,876</b>

\*The costs listed for continuing education and the maintenance agreements are calculated for 10 months, rather than a full year.

Supplies/kits for collection & DNA analysis of felony convictions (3,600*\$23)	\$85,284*
Supplies/kits for collection & DNA analysis of misdemeanor convictions	Unknown
Funding for proficiency tests and continuing education	\$22,145*
Maintenance agreement for two 3100 Genetic Analyzers (1 year agreement)	\$14,832*
FTE Supplies/Phone charges	\$649*
<b>Total recurring Costs (not including salary)</b>	<b>\$122,910</b>

\*The above recurring costs were calculated using a 3% inflationary factor.

Since the MHP can determine an accurate number of felony convictions, but are unable to determine an accurate number of misdemeanor convictions that would need to be analyzed as a result of the legislation, MHP's estimated fiscal impact will be a range. The range will start at the dollar amount we can determine at this point (\$1,189,548 in FY03, \$70,432 in FY04 and \$72,697 in FY05) and will end at an unknown dollar amount.

**Oversight** assumes the proposal would require DNA testing for additional offenses, expanding the DNA database. The Department of Corrections provided statistics regarding persons remaining in prison and remaining under supervision by the Division of Probation and Parole who pled guilty or were convicted of those additional offenses for which DNA samples are not currently required (total 24,695). The Department of Corrections also provided the FY 01 number of new prison admissions and probation openings for those same additional offenses (total 8,163). Based on the data received from the Department of Corrections, Oversight assumes the Missouri State Highway Patrol (MHP) would perform DNA testing on approximately 25,000 persons who have been incarcerated or under supervision by probation and parole since August 28, 1996. Oversight further assumes that the MHP would perform DNA testing on approximately 8,000 new offenders annually.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume this component of the bill mostly affects the DPS. In FY 01, there were 1,751 new commitments to DOC for the crimes noted in this bill and 8,521 probation openings for an approximate annual total of 10,272 offenders who would now require DNA profiling. (This data includes all crimes, current and proposed, for which DNA profiling would be required.) This approximate annual total does not include offenders who will already be in the DOC system at the time of passage of this proposal. DOC assumes there will be some additional accommodations by staff for inmate movement, etc. in order to facilitate this testing, however the DOC assumes any fiscal impact will be absorbable within existing resources.

Miscellaneous New Crimes/Crime Enhancements

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 crimes created or requiring enhanced penalties: tampering with pharmaceuticals or knowingly adulterating a drug; assault on the property of a hospital emergency room or a trauma center; revising the stealing limits or revising the limits on receiving stolen property; hate crimes via arson; enhanced penalties for the crime of invasion of privacy; amended crimes of resisting arrest or interfering with a stop or detention to include eluding law enforcement; prostitution with HIV, a class B felony; and failure to inform medical staff of HIV, a class B felony. 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 the 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 they cannot predict the number of new commitments which may result from the creation of many of the offenses 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 (FY 01 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 (FY 01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender).

ASSUMPTION (continued)

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.

**Oversight** assumes, based on the wide range of new crimes created and crimes enhanced, that the incarceration/probation cost of the proposed legislation to the Department of Corrections would exceed \$100,000 in any given fiscal year.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>GENERAL REVENUE FUND</b>			
<u>Costs</u> – Department of Corrections Incarceration/Probation costs	(\$148,444 to Unknown)	(\$199,042 to Unknown)	(\$201,187 to Unknown)
<u>Costs</u> – Department of Health and Senior Services (DHSS) (\$191.656)			
Laboratory tests (1,000 per year)	(\$35,875)	(\$44,342)	(\$45,672)
Requests for reports (10 per year)	<u>(\$125)</u>	<u>(\$155)</u>	<u>(\$159)</u>
Total Costs – DHSS	(\$36,000)	(\$44,497)	(\$45,831)
<u>Costs</u> – State Highway Patrol (\$650.050)			
Personal Service (1 FTE)	(\$18,553)	(\$22,820)	(\$23,390)
Fringe Benefits	(\$8,119)	(\$9,986)	(\$10,235)
Equipment and Expense	<u>(\$886,219)</u>	<u>(\$227,455)</u>	<u>(\$234,278)</u>
Total Costs – MHP	(\$912,891)	(\$260,261)	(\$267,903)
<u>Transfer out</u> – to State School Money Fund (\$50.555)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$1,097,335 to Unknown)</u></b>	<b><u>(\$503,800 to Unknown)</u></b>	<b><u>(\$514,921 to Unknown)</u></b>



### FISCAL IMPACT - Small Business

The proposed legislation could have a fiscal impact on small businesses who perform Hepatitis C testing.

### DESCRIPTION

The proposed legislation contains numerous provisions including: establishes the "County Crime Reduction Fund;" regulates itinerant vendors and peddlers; creates requirements for the information relating to sexually transmitted diseases held by prosecutors; creates crimes involving HIV transmission; increases some penalties for abuse of health care recipients; increases the penalty for some conservation violations; provides regulations for pharmacists; creates new penalties for crimes of arson and discrimination involving churches and other houses of worship, establishes the \$1,000 restorative justice provisions for some probationers; provides there will be no SIS or SES for assaults on mass transit workers or passengers; creates new crimes relating to assault and invasion of privacy; prohibits cloning human beings; creates new crimes relating to tampering with prescription drugs; creates new crimes relating to prostitutes and HIV; increases the penalty for tampering with computer data; creates new stealing penalties; raises the amount for felony stealing to \$750; increases the service charge charged by prosecutors for bad checks; changes crimes relating to resisting arrest; and, increases the definition of those persons required to have DNA analysis.

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 State Public Defender  
Department of Corrections  
Department of Health and Senior Services  
Department of Public Safety  
    – Missouri State Highway Patrol  
    – Missouri State Water Patrol  
    – Division of Fire Safety  
Office of State Courts Administrator  
Department of Economic Development  
    – Division of Professional Registration  
Office of Attorney General  
Jackson County Prosecuting Attorney's Office



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