

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4713-02  
Bill No.: HCS for HB 1962  
Subject: Circuit Clerk; Courts  
Type: Original  
Date: April 8, 2002

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
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
State School Money**	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(Unknown) to \$1,900,000</b>	<b>(Unknown) to \$1,900,000</b>	<b>(Unknown) to \$1,900,000</b>

\*Savings of Unknown to \$1,900,000; Transfer out of \$0 to (Unknown)

\*\*Offsetting Savings and Loss of Unknown to \$1,900,000; 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>\$0 to Unknown</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Department of Social Services, Department of Health and Senior Services, Department of Public Safety – Missouri State Highway Patrol, – Missouri State Water Patrol, State Treasurer’s Office, Governor’s Office, Office of Attorney General,** and the **Department of Corrections** assume the proposed legislation would have no fiscal impact on their agencies.

In response to a previous version of this proposal (HB 1962), officials from the **St. Louis County Sheriff’s Office** assumed the proposed legislation would have no fiscal impact on their agency.

In response to a previous version of this proposal (HB 1962), officials from the **Cole County Recorder of Deeds’ Office** assumed costs would increase approximately \$25,000 per year due to the need for extra manpower to record, release, etc. liens.

Officials from the **Office of Secretary of State (SOS)** assume this bill modifies various aspects of court administration. The State Court Administrator may promulgate rules to implement this bill. Based on experience with other divisions, the rules, regulations and forms issued by the State Court Administrator could require as many as 10 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the code because cost statements, fiscal notes and the like are not repeated in Code. The estimated cost of a page in the Missouri Register is \$23.00. The estimated cost of a page in the Code of State Regulations is \$27.00. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn. Based on these costs, the SOS estimates the cost of the proposal to be \$615 in FY 03 and unknown in subsequent years.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Department of Revenue (DOR)** assume this legislation should have little impact on their agency:

Section 488.5021.1 – Court ordered fee. If the person who pays the penalty fee files bankruptcy, there are possible consequences if they include a criminal fee in their bankruptcy proceeding. This may not affect the Department of Revenue unless the fee is a Motor Vehicle Administrative fee like the one for DWI, etc.

ASSUMPTION (continued)

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the proposed legislation would 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. DESE assumes collections on delinquent fines would increase, thereby increasing the amount of fine money distributed to local school districts.

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 Department of Revenue 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 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.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would revise various court administrative sections, including fee payments, filing procedures, cost assessments, and fine collections. The only provision that would have a significant fiscal impact on the courts is contained in Section 488.5021. This section 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, CTS estimates 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 50% of felonies and 75% of misdemeanors, and is the less likely amount of the two estimates.

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, CTS assumes 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.

ASSUMPTION (continued)

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.

**Oversight** assumes a \$20 fee for penalties, fines, and sanctions not paid within 30 days of imposition would result in an increase in fine revenue to the municipalities, counties, and local school districts. Oversight assumes the increase in fine revenue resulting from this proposal to the local school districts will decrease the contribution by the state to the State School Money Fund (through the General Revenue Fund).

**Oversight** assumes that fiscal impact of Section 55.555 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.

<u>FISCAL IMPACT - State Government</u>	FY 2003	FY 2004	FY 2005
	(10 Mo.)		
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> – Decreased Transfers to State School Money Fund	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
<u>Transfer out</u> – to State School Money Fund	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(Unknown) to <u>\$1,900,000</u></b>	<b>(Unknown) to <u>\$1,900,000</u></b>	<b>(Unknown) to <u>\$1,900,000</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>STATE SCHOOL MONEY FUND</b>			
<u>Savings</u> – Decreased Distributions to School Districts	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
<u>Loss</u> – Decreased Transfers from General Revenue Fund	(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)
<b>ESTIMATED NET EFFECT ON STATE SCHOOL MONEY FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>SCHOOL DISTRICTS</b>			
<u>Increase in Revenue</u> – Additional \$20 fee for penalties, fines, and sanctions not paid within 30 days	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
<u>Reduction in Replacement Revenue</u> – Decreased distributions from the State School Money Fund	(Unknown to \$1,900,000)	(Unknown to \$1,900,000)	(Unknown to \$1,900,000)
<u>Income</u> – to Certain School Districts*** from State’s School Aid Formula	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Loss</u> – to Certain School Districts*** from reduction in fines	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICTS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

**\*\*\*Fiscal impact would be dependent upon the County Commission establishing a Crime Reduction Fund and upon the number of cases that would be suspended without a fine.**

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>LOCAL GOVERNMENTS</b>			
<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>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<b><u>\$0 to Unknown</u></b>	<b><u>\$0 to Unknown</u></b>	<b><u>\$0 to Unknown</u></b>

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 change several provisions relating to court procedures and jurisdiction. In its major provisions, the proposal would:

1. Allow county commissions to create county crime reduction funds and specify the purposes for which the money in the funds can be spent (§§50.550 and 50.555);
2. Define “court” for purposes of income tax credits and refunds (§143.782);
3. Prohibit an interpreter or translator from being compelled to testify as to information that would otherwise be protected by attorney-client privilege. Interpreters or translators who serve in any criminal or juvenile proceeding would be allowed a reasonable fee approved by the court (§476.061);
4. Provide that venue in small claims cases will be determined pursuant to the general venue statute for cases instituted by summons, Section 508.010, RSMo. Under current law, venue in small claims cases lies in the county (a) where the defendant resides, or where the plaintiff resides and the defendant may be found; or (b) where the cause of action accrued (§482.330);
5. Remove the \$1.00 fee for each additional summons issued in each associate circuit court case filed. The proposal would not affect the \$15 for each associate circuit court case filed (§488.012);

DESCRIPTION (continued)

6. 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);
7. Add juvenile proceedings and domestic violence actions to the types of cases for which the state will pay for an interpreter or translator for a party or witness to the proceeding (§491.300);
8. Provide that certain jury lists will be disclosed only pursuant to local court rule (§494.410, 494.415, and 494.420);
9. Judgments entered by the associate division of the circuit court which are entitled to a trial de novo would be a lien upon final judgment (§511.350);
10. Remove the requirement that a transcript judgment be filed with the circuit clerk before a judgment entered by an associate division of the circuit court becomes a lien on real property (§517.151);
11. 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);
12. Allow the court to order a payment of up to \$1,000 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 defendant could refuse probation that includes payments to a county crime reduction fund as a condition, but probation could not be revoked solely for failure to make payments to the fund, except under certain circumstances (§559.021);
13. Change the assessment of fees in certain criminal cases payable to the county or the state from time of conviction to the plea or finding of guilt (§595.045);
14. 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 (Section 1); and
15. Remove duplicate language and sections.

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 Social Services  
Department of Public Safety  
    – Missouri State Highway Patrol  
    – Missouri State Water Patrol  
Department of Health and Senior Services  
State Treasurer's Office  
Office of Secretary of State  
Office of the Governor  
Department of Revenue  
Department of Elementary and Secondary Education  
Office of Attorney General  
Department of Corrections  
Office of State Courts Administrator  
St. Louis County Sheriff's Office  
Cole County Recorder of Deeds' Office



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