

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0356-03
Bill No.: SCS for SB 5
Subject: Crimes and Punishment; Criminal Procedure; Firearms and Fireworks; Courts;
 Juvenile Courts
Type: Original
Date: March 11, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	Up to \$9,027,270	Up to \$18,596,177	Up to \$19,154,062
Total Estimated Net Effect on General Revenue Fund	Up to \$9,027,270	Up to \$18,596,177	Up to \$19,154,062

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
None			
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol, – State Emergency Management Agency, – Division of Highway Safety, – Missouri State Water Patrol, – Director’s Office, Office of State Public Defender, and the Department of Transportation** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of Attorney General (AGO)** assume costs could be absorbed although certain provisions may result in additional criminal appeals which would result in additional costs to AGO.

Officials from the **Office of State Courts Administrator (CTS)** assume the provision requiring judges to make written findings stating the reasons for any deviation from the recommended sentence in Chapter 195 would cause an increased workload for judges, depending on how often the sentence deviates. CTS would not anticipate a significant impact on the workload of the judiciary from these provisions.

Officials from the **Office of Prosecution Services** assume prosecutors could absorb the costs of the proposed legislation within existing resources.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume this proposal's intent encourages the courts to use probation whenever practical as an alternative to incarceration. Based on FY02 averages, the Department calculates an average daily cost to incarcerate an offender of \$35.52 per day. This cost includes staff, inmate healthcare, food, clothing, inmate wages, maintenance, fuel and utilities, administration, and other overhead costs. The full \$35.52 per offender per day would only be realized if the reduction in the subsequent number of inmates resulted in the actual closing of an institution or housing units within an institution. If the reduction of inmates does not result in the actual closing of an institution or housing units within an institution, the offender per day costs could be significantly lower. A decrease in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. The community supervision cost is \$3.10 per offender, per day.

The DOC is unable to predict the total number of court decisions the proposal will affect; however, DOC assumes a greater percentage of that number will result in probation with a smaller percentage resulting in prison commitments, thus resulting in the potential for a significant positive fiscal impact. The bill will result in fewer offenders coming to prison as alternatives to incarceration are used. The DOC believes the bill could result in savings in excess of \$9 million dollars, but the exact amount is unknown. The DOC estimates that passage of this bill has the potential to see a minimum of 1,352 fewer offenders incarcerated per year. The DOC also assumes that an unknown dollar amount of long-range savings is possible in the future by avoiding new prison construction as well as the rising costs to incarcerate offenders due to the trend of inflation. There will be some offset to the savings due to the cost of increased amounts of offenders who could potentially be supervised by probation and parole in the community.

Sentencing Provisions			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	35.52	365	12,965
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 Saving w/ Inflation
FY 2003	0	(current year which will have no costs incurred)				
FY 2004	1,352	676	0	8,764,340	0	9,027,270
FY 2005	1,352	1,352	0	17,528,680	0	18,596,177
FY 2006	1,352	1,352	0	17,528,680	0	19,154,062
FY 2007	1,352	1,352	0	17,528,680	0	19,728,684
FY 2008	1,352	1,352	0	17,528,680	0	20,320,544
FY 2009	1,352	1,352	0	17,528,680	0	20,930,161
FY 2010	1,352	1,352	0	17,528,680	0	21,558,065
FY 2011	1,352	1,352	0	17,528,680	0	22,204,807
FY 2012	1,352	1,352	0	17,528,680	0	22,870,952
FY 2013	1,352	1,352	0	17,528,680	0	23,557,080
Total Ten-Year Fiscal Impact:						197,947,802

In summary, the amount of potential savings due to enactment of this legislation is unknown, but expected to be significant.

Officials from the **Boone County Sheriff's Department, Cole County Sheriff's Department, Greene County Sheriff's Department, and Jackson County Sheriff's Department** did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
GENERAL REVENUE FUND			
<u>Savings</u> – Department of Corrections Reduced Incarceration/Probation	Up to \$9,027,270	Up to \$18,596,177	Up to \$19,154,062
<u>Costs</u> – Department of Corrections Probation costs	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	Up to <u>\$9,027,270</u>	Up to <u>\$18,596,177</u>	Up to <u>\$19,154,062</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<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 allow judicial discretion in determining whether the prior and persistent drug sentencing provisions should apply, or whether the court should instead order seizure of any assets directly related to the commission of the offense and order an approved treatment program.

The proposal would add alcohol treatment to programs for offenders with substance abuse. The treatment would be at least 12 months and no more than 24 months. The Department of Corrections would have the ability to determine the nature, intensity, duration and completion criteria of the programs provided. Thirty days prior to the successful completion of the program, the Board of Probation and Parole would advise the sentencing court of an offender's probationary release.

DESCRIPTION (continued)

Courts would be required to impose sentencing in all criminal trials after verdict or plea, except for first degree murder. The proposal would require courts to consider the Sentencing Commission guidelines. Presentence investigations would include the recommended sentence established by the Sentencing Commission, a description of the impact of the crime upon the victim, and available alternatives to incarceration, including opportunities for restorative justice.

The proposal would allow any offender serving 120 days of a Class C or D nonviolent felony to petition the court to serve the remainder of the sentence on probation or parole. The Department of Corrections would submit a report to the court that would evaluate the offender and recommend whether the offender shall be released. The court would abide by the recommendations unless it finds it is an abuse of discretion.

The proposal would change the maximum punishment for a Class D felony from 5 years to 4 years.

In all cases involving violations of Chapter 195, RSMo, the court would have discretion to deviate from recommended guidelines, but would be required to enter written findings for any deviation for statistical purposes only. The findings would be sent to the Sentencing Commission and made part of the offender's probation and parole record. Failure to enter written findings in these cases, when the sentence ordered is in excess of the guidelines, would authorize but not require the Board to adjust the sentence to bring it into compliance with the guidelines. If the court would suspend the imposition or execution of any sentence, the court could consider various restorative justice methods, such as restitution, community service, or work release programs.

Detention up to 48 hours would be a condition of probation after determination by a probation or parole officer that the offender violated a condition of continued probation or parole.

A court could recommend placement of an offender in a Department of Corrections 120 day program, depending on the offender and the available resources. Upon completion of the program, the Department would make a recommendation based on the offender's participation in the program and the court would follow the recommendations unless it determines it would be an abuse of discretion. The proposal would allow persons convicted of statutory rape in the first degree and statutory sodomy in the first degree, who have no prior convictions for either crime, to be eligible for assessment by the sexual offender treatment unit of the Department of Corrections.

DESCRIPTION (continued)

The independent audit required of law enforcement agencies involved in federal forfeitures would be provided to the Department of Public Safety, as well as to the governing body of the agency. The Department would not issue funds to any law enforcement agency that fails to comply.

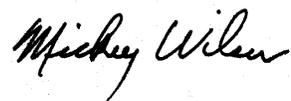
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of State Courts Administrator
Department of Corrections
Department of Public Safety
 – Missouri State Highway Patrol
 – State Emergency Management Agency
 – Division of Highway Safety
 – Missouri State Water Patrol
 – Director's Office
Office of Prosecution Services
Office of State Public Defender
Department of Transportation

NOT RESPONDING

Boone County Sheriff
Cole County Sheriff
Greene County Sheriff
Jackson County Sheriff



Mickey Wilson, CPA

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