

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1781-06
Bill No.: SCS for HCS for HB 613 with SA 1
Subject: Courts; Children and Minors; Circuit Clerk; Judges; Family Services Division
Type: Original
Date: May 8, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(\$72,598 to Unknown)	(\$86,887 to Unknown)	(\$86,653 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$72,598 to Unknown)	(\$86,887 to Unknown)	(\$86,653 to Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Basic Civil Legal Services	\$0	\$0	\$0
Criminal Record System	\$0	\$0	\$0
Statewide Court Automation*	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

* Expenses associated with the statewide court automation project would likely equal income; therefore, net effect is zero.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Federal	\$12,230	\$15,122	\$15,576
Total Estimated Net Effect on <u>All</u> Federal Funds	\$12,230	\$15,122	\$15,576

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, Department of Corrections, Department of Labor and Industrial Relations, Department of Revenue, Department of Conservation, Missouri House of Representatives, Missouri Senate, Office of Secretary of State, Office of State Public Defender, and the Office of the State Treasurer** assume 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.

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, reporting requirements, and fine collections.

ASSUMPTION (continued)

The legislation would also extend the sunset of the Statewide Court Automation Fund fee from 2004 to 2005. The sunset on the court automation committee is extended to 2011. The fund realized \$4,341,979 in FY 02, and projected to realize \$4,523,956 in FY 03. While CTS cannot predict absolutely the future income to this fund, CTS assumes that it will be approximately \$4,450,000 per year.

The legislation would also establish the “Basic Civil Legal Services Fund” and authorize additional filing fees in civil and criminal cases to be credited to the fund. Moneys collected for this fund are to be paid by the court clerk to the Office of State Courts Administrator; the Missouri Supreme Court is to determine and oversee the administration of this fund. Based upon a caseload analysis for FY 2002, the legislation would generate approximately \$3,654,807 in any given year. Since the legislation provides that administrative costs are to be paid from the fund, there would be no cost to the judiciary.

The legislation would also modify various provisions relating to the filing of orders of protection, including prohibiting the assessment of filing fees, court costs, or bonds for orders of protection. Because of the low rate of assessment and collection of costs and fees for these cases, this bill would neither cost nor save a significant amount of revenue for the judiciary. (Federal law currently prohibits the assessment of costs and fees to the petitioner.)

Officials from the **Department of Transportation (MoDOT)** assume Section 510.120 of this legislation provides a mandatory basis for court proceeding continuances, based upon a party or an attorney being a member of the legislature. This section could have a negative fiscal impact on MoDOT, especially if it prevents a case from being tried so MoDOT can recover some funds or expenses. MoDOT was unable to determine the fiscal impact. After further analysis, MoDOT assume that any court proceeding can be assigned a court date or continuance for a variety of reasons; therefore, this legislation only allows another reason for a continuance and will not cause significant changes to current situations. There is no fiscal impact on MoDOT.

Officials from the **Department of Social Services – Division of Child Support Enforcement (DCSE)** assume this bill, if enacted, would prevent DCSE from performing modifications of judicial child support orders via administrative process. Such prohibition could require DCSE to utilize services of staff attorneys and county prosecuting attorneys for such modifications. This would slow down the process, but DCSE does not expect federal funding to be jeopardized. DCSE has determined that passage of this legislation will not require the commitment of additional resources or require additional FTE. DCSE could perform the modifications with current resources and still be in federal compliance. Therefore, the proposal would have no fiscal

impact.

ASSUMPTION (continued)

DCSE further assumes Section 454.505.2 would have a fiscal impact. DCSE currently sends a copy of an administrative wage withholding on a non-custodial parent to the circuit clerk of the appropriate court when the withholding is implemented. The proposed legislation would eliminate that requirement, resulting in reduced office supply and postage costs. DCSE estimates the savings to the General Revenue Fund to be \$6,300 in FY 04; \$7,790 in FY 05; and \$8,024 in FY 06. DCSE estimates the savings to Federal Funds to be \$12,230 in FY 04; \$15,122 in FY 05; and \$15,576 in FY 06.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** assume Section 43.530 of the proposed legislation states the MHP shall receive payments electronically. The proposed language also authorizes the Patrol to establish procedures for electronic payment. At this time, the MHP would only establish procedures to collect fees from customers that request and pay for the background checks at the Criminal Records and Identification Division with a credit card (walk-in customers). If another state agency is paying for a background check, it can be done electronically through SAM II with interagency billing, which is already established. Therefore, the proposed legislation would not result in any impact to the General Revenue fund, and only minimal impact to the Criminal Records System Fund.

Officials from the **Office of Administration – Commissioner’s Office (COA)** assume Section 491.280 of the proposal would have a fiscal impact. COA assumes there will be increased costs to the criminal costs appropriation which reimburses counties for costs of witnesses. COA estimates there will be roughly 2,508 witnesses whose costs are reimbursed by the state. If the costs are increased, costs for witnesses will increase by \$52,668. (114 counties, 22 witnesses per county, increase from \$3 or \$4 per witness to \$25 per witness.) Since mileage is also added, the increase in costs is estimated at 50 miles per witness, at .335 per mile, an increase of \$42,009. However, with the significant increase in the per diem, COA anticipates reimbursements to increase. Currently many counties do not request witness fees because the administrative costs for requesting such fees are greater than the return. Therefore, COA assumes the cost to be \$94,677 to unknown. These costs are in the form of Local Assistance, since reimbursement is made to the counties.

Oversight assumes the amount of reimbursement will not have an annual inflationary adjustment and has adjusted the costs accordingly.

ASSUMPTION (continued)

Oversight assumes, based on information received from Office of State Courts Administrator, that local governments could experience an unknown cost due to the increased fees prosecutors could pay to witnesses in Section 488.032. Witnesses are currently paid \$3.00 per day within their county, \$4.00 per day out of their county, and \$15.00 plus \$.10 per mile if they are from out of state.

In response to a previous version of this proposal, officials from the **Boone County Treasurer's Office** assumed the proposal would result in a decrease in revenues and a loss of funds from fees taken away. Officials estimated the losses to be \$100,000 per fiscal year.

Oversight has reflected the statewide losses to counties as unknown.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
GENERAL REVENUE FUND			
<u>Savings</u> – Department of Social Services			
Reduced copying and postage (\$454,505.2)	\$6,300	\$7,790	\$8,024
<u>Costs</u> – Office of Administration (\$491,280)			
Local Assistance	(\$78,898 to <u>Unknown</u>)	(\$94,677 to <u>Unknown</u>)	(\$94,677 to <u>Unknown</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(\$72,598 to <u>Unknown</u>)	(\$86,887 to <u>Unknown</u>)	(\$86,653 to <u>Unknown</u>)

BASIC CIVIL LEGAL SERVICES FUND	FY 2004 (10 Mo.)	FY 2005	FY 2006
<u>Income</u> – Office of State Courts			
Administrator (CTS) (§§47.650, 488,031)			
Court filing fees	\$3,045,673	\$3,654,807	\$3,654,807
<u>Costs</u> – CTS (§§47.650, 488,031)			
Personal Services (2 FTE)	(\$55,371)	(\$68,106)	(\$69,808)
Fringe Benefits	(\$22,409)	(\$27,562)	(\$28,251)
Equipment and Expense	(\$15,310)	(\$762)	(\$786)
Distribution to legal services organizations	<u>(\$2,952,583)</u>	<u>(\$3,558,377)</u>	<u>(\$3,555,962)</u>
<u>Total Costs</u> – CTS	<u>(\$3,045,673)</u>	<u>(\$3,654,807)</u>	<u>(\$3,654,807)</u>

ESTIMATED NET EFFECT ON BASIC CIVIL LEGAL SERVICES FUND

\$0 \$0 \$0

STATEWIDE COURT AUTOMATION FUND	FY 2004 (10 Mo.)	FY 2005	FY 2006
<u>Revenues</u> – Office of State Courts			
Administrator			
Extension of sunset (§476.055)*	<u>\$0</u>	<u>\$3,708,333</u>	<u>\$741,666</u>
<u>Costs</u> – Office of State Courts			
Administrator			
Expenses associated with implementation of statewide court automation project (§476.055)*	<u>\$0</u>	<u>(\$3,708,333)</u>	<u>(\$741,666)</u>

ESTIMATED NET EFFECT ON STATEWIDE COURT AUTOMATION FUND*

\$0 \$0 \$0

* Expenses associated with the statewide court automation project would likely equal income; therefore, net effect is zero.

FEDERAL FUNDS

<u>Savings</u> – Department of Social Services			
Reduced copying and supplies (\$454,505.2)	<u>\$12,230</u>	<u>\$15,122</u>	<u>\$15,576</u>

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$12,230</u>	<u>\$15,122</u>	<u>\$15,576</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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POLITICAL SUBDIVISIONS

<u>Losses</u> – Counties			
Loss of fees	(Unknown)	(Unknown)	(Unknown)

<u>Costs</u> – Prosecutors			
Increased witness fees (\$491,280)	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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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 various provisions relating to court procedures. In its main provisions, the proposal would:

- (1) Amend the statute on time computation in civil cases to exactly match the corresponding Supreme Court rule;

(2) Amend the process for filling vacancies of any unexpired term on the executive council of the judicial conference;

DESCRIPTION (continued)

(3) Allow for legislative continuances in court during special and veto sessions and during interim committee assignments;

(4) Eliminate, effective January 1, 2004, any requirement that petitioners for protection orders provide their Social Security numbers on petitions or case documents, although courts may require petitioners to provide the number on confidential case sheets;

(5) Allow a party to a contested case with a state agency to apply to a court for enforcement of a subpoena. Current law allows only the agency to seek court enforcement. The proposal would also allow the agency or any party to intervene in an enforcement action;

(6) 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;

(7) Require, beginning July 1, 2004, that the names on the master jury list be chosen from certain source lists. The names of potential jurors on the list would not be public record;

(8) Require the Judicial Finance Commission to resolve any dispute within ninety days of the subsequent fiscal year if the dispute is submitted within ninety days of the end of the fiscal year;

(9) Delete the requirement that the Division of Family Services must file all income withholding orders with the circuit clerk in child support cases;

(10) Create the Basic Civil Legal Services Fund. The fund would increase the public money available for civil legal services for low-income persons. To fund the program, a \$20 fee would be assessed upon the filing of every civil or criminal proceeding in supreme court and in any appellate court, a \$10 fee would be assessed upon filings in circuit court, and a \$10 fee would be assessed upon filings in associate circuit court. The Missouri Supreme Court or its designee would administer the fund. Moneys from the fund, not exceeding 3% of such funds, would be used to pay for the collection of the fee and the implementation and administration of the fund;

(11) Provide that witnesses would be allowed a fee of \$25 per day plus a mileage allowance. Currently, witness fees are determined by guidelines promulgated by the supreme court; and

(12) Allow criminal record requests performed by the State Highway Patrol to be paid for by electronic payment. The proposal would also allow the State Highway Patrol to establish a procedure to receive electronic payment for criminal record and fingerprint requests.

DESCRIPTION (continued)

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 Administration
 – Administrative Hearing Commission
Office of State Courts Administrator
Department of Transportation
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Conservation
Department of Public Safety
 – Missouri State Highway Patrol
Missouri House of Representatives
Missouri Senate
Office of Secretary of State
Office of the State Treasurer
Boone County Treasurer's Office

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A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
May 8, 2003