

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3722-06
Bill No.: Truly Agreed To and Finally Passed CCS for SS for HCS for HB 1055
Subject: Children and Minors; Crimes and Punishment; Science and Technology
Type: Original
Date: May 26, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health, Department of Labor and Industrial Relations, Department of Revenue, Department of Social Services, and the Department of Public Safety – Missouri State Highway Patrol** assume the proposal would have no fiscal impact on their agency.

Officials from the **Office of the Attorney General (AGO)** assume a certain number of new criminal appeals may result from the changes to various criminal provisions. The AGO assumes the cost of the proposed legislation could be absorbed within existing resources.

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

ASSUMPTION (continued)

In response to a previous version of the proposal (3722-04), officials from the **Office of State Public Defender (SPD)** assumed new crimes create new cases for the SPD. The exact number of cases affected is too uncertain to provide a definitive dollar amount of fiscal impact. Since the amount of impact is uncertain, the SPD assumes existing staff will not be able to provide representation in these cases. However, once the true fiscal impact is determined, the SPD will reassess the impact of this legislation. Passage of more than one bill increasing existing penalties or creating new crimes will require increased appropriations for the SPD.

Oversight assumes the SPD could experience an increase in case load due to the proposed legislation. Oversight assumes the SPD could absorb the cost of the increased case load within existing resources.

In response to a previous version of the proposal (3722-04), officials from the **Department of Corrections (DOC)** assumed they cannot predict the number of new commitments which may result from the enhancement 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 (FY03 average of \$38.10 per inmate per day, or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

The DOC does not anticipate the need for capital improvements at this time. It must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

In summary, the proposal would result in increased costs to DOC. DOC assumes these costs to be Unknown, but expect the costs to be less than \$100,000 per year.

Oversight assumes the proposal could result in persons sentenced to longer terms of incarceration. Based on the average incarceration cost per inmate, if eight persons are incarcerated, the unknown cost to DOC will exceed \$100,000. Therefore, Oversight assumes the cost of the proposal could exceed \$100,000 in any given fiscal year.

ASSUMPTION (continued)

Officials of the **Office of State Courts Administrator (CTS)** assume the proposal would authorize county commissions to create local crime restitution funds and authorize courts to require misdemeanor defendants to pay into the local funds \$300 as part of a restorative justice program. Certain traffic offenses are exempt.

CTS stated that this 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, officials assume one of them would provide these services through local funds, and state-paid court clerks would not be required to perform this duty. 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.

Officials stated that 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 thousands of cases.

If cases that would otherwise have resulted in a conviction are shifted to a suspended imposition or execution of sentences, it is likely to result in the loss of revenue from fines to the schools, crime victims' compensation fund, 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 local law enforcement agencies would receive additional revenues from the registration fees collected from sex offenders' registration. Oversight assumes the cost of maintaining the registration data would offset the revenues collected.

Oversight assumes that fiscal impact would depend upon several factors: 1) The County Commission would need to establish the Law Enforcement Restitution Fund; and 2) The amount of fiscal impact would depend on the number of cases the Court would suspend and require payment into the Crime Law Enforcement Restitution Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
LAW ENFORCEMENT AGENCIES			
<u>Revenues</u> – Law Enforcement Agencies			
Registration fees (§589.400)	Unknown	Unknown	Unknown
<u>Costs</u> – Law Enforcement Agencies			
Maintaining registration data (§589.400)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LAW ENFORCEMENT AGENCIES	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**COUNTY LAW ENFORCEMENT
 RESTITUTION FUND**

Income to Law Enforcement Restitution
 Fund *

Court ordered payment (§§50.550, 50.565, 558.019, 559.021)	Unknown	Unknown	Unknown
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Costs to Law Enforcement Restitution
 Fund *

Law Enforcement programs (§§50.550, 50.565, 558.019, 559.021)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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**ESTIMATED NET EFFECT TO
 COUNTY LAW ENFORCEMENT
 RESTITUTION FUND***

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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*** Fiscal impact would be dependent upon the County Commission establishing a County Law Enforcement Restitution Fund and upon the number of cases that would be suspended without a fine.**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

A Missouri criminal record review would include a review of criminal history records and sex offender registration records. (§43.540)

This proposal would allow counties to establish by ordinance the County Law Enforcement Restitution Fund. The fund would receive money from court-ordered restitution. The restitution may not exceed \$300 for any charged offense. If a defendant fails to make a payment to the fund, probation could be revoked. The fund may only be used for law enforcement expenditures specified in the bill and will be supervised by a board of five trustees appointed by certain county officials. The county is prohibited from reducing any law enforcement agency's budget as a result of establishing the fund. The fund is subject to audit. The bill also allows the court to order a defendant to enter an offender treatment program, work release program, or a community-based residential and nonresidential program. (§§50.550, 50.565, 558.019, 559.021)

BLG:LR:OD (12/02)

DESCRIPTION (continued)

In civil actions for recovery of damages suffered as a result of childhood sexual abuse, the action would be commenced within ten years of the date the plaintiff attains the age of twenty-one or within three years of the date of discovery, whichever occurs later. Currently, an action would be commenced within five years of the date the plaintiff attains the age of eighteen or within three years of the date of discovery, whichever occurs later. (§537.046)

The proposed legislation would lengthen the statute of limitations for most sexual offenses in which the victim is age 18 or younger. Under current law, the statute of limitations is 10 years after the victim reaches age 18. The proposal would lengthen the statute of limitations to 20 years after the victim reaches age 18. The lengthened statute of limitations would apply to all sexual offenses in which the victim is under the age of 18, except for the crimes of rape and sodomy for which there is no statute of limitations. (§556.037)

The proposal would revise assault of a law enforcement officer or emergency personnel in the second and third degree. (§§565.082, 565.083)

The proposal would make second and subsequent offenses of sexual misconduct involving a child an offense under chapter 566 (sexual offenses). (§566.083)

Add sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person to sexual misconduct in the second degree. (§566.093)

Persons providing assessment services or making a report, finding, or recommendation for any probationer who pled or was found guilty of a violation of chapter 565 (offenses against the person) or chapter 566 (sexual offenses) could be related within the third degree to any person who has a financial interest in the counseling or treatment. (§566.140)

The proposal would also require all convicted sex offenders, as a condition of probation, to successfully complete a sex offender treatment program and follow all directives of the treatment program provider. (§566.141)

The proposed legislation would prohibit any person who has been convicted of certain sex-related crimes to live within 1,000 feet of a school or a child care facility. Violation of the provision would be a class D felony. A second or subsequent offense would be a class B felony. If a school or child care facility is opened within 1,000 feet of where an offender resides, the person would be required to notify the sheriff of this fact within one week. Failure to do so would be a class A misdemeanor. A subsequent offense would be a class D felony. (§566.147)

DESCRIPTION (continued)

The proposed legislation would change possession of child pornography to a class D felony for the first offense and a class C felony for a second or subsequent offense. Under current law, it is a class A misdemeanor for the first offense and a class D felony for a second or subsequent offense. (§573.037)

The proposed legislation would establish fees that sheriffs would collect from sex offenders at the time of the offender's registration. The offender's initial registration fee would be up to \$10 and the fee would be \$5 for every subsequent change in registration. (§589.400)

The proposed legislation would require probation and parole officers who are assigned to a registered sex offender to notify the sheriff when the officer has reason to believe the sex offender will be changing his or her residence. The officer would also be required to notify the offender of his or her duty to register upon changing residency. The proposal would clarify that the term "probation officer" include any private entity providing probation supervision services. (§589.415)

Any person who is required to register as a sex offender and was convicted pursuant to chapter 566 of an unclassified felony, class A felony, class B felony, or any felony involving a child under the age of fourteen would be guilty of a class D felony for the first violation and a class C felony for a second or subsequent violation. (§589.425)

In addition to other duties, the state technical assistance team within the Department of Social Services would assist in cases of child pornography. (§660.520)

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 the Attorney General
Office of State Courts Administrator
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety
 – Missouri State Highway Patrol
Office of Prosecution Services
Office of State Public Defender



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