

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0830-05
Bill No.: Perfected HCS for HB 353
Subject: Criminal Procedure; Probation and Parole
Type: Original
Date: April 19, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown
Total Estimated Net Effect on General Revenue Fund	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
State School Moneys*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds*	\$0	\$0	\$0

* Offsetting savings and losses to State School Moneys Fund.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government**	\$0	\$0	\$0

** Local School Districts would have offsetting income from increase fines and losses from reduced distribution from State School Moneys Fund.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration, Department of Transportation, Department of Natural Resources,** and the **Department of Public Safety – Division of Fire Safety** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (HCS for HB 353, LR # 0830-05), officials from the **Coordinating Board for Higher Education, Department of Mental Health, Department of Health and Senior Services, Department of Social Services, Department of Public Safety – Missouri State Water Patrol, Missouri House of Representatives, Missouri Senate, State Treasurer’s Office, Parkway Public Schools,** and **Southwest Missouri State University** assumed the proposal would have no fiscal impact on their agencies.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would make numerous changes in the statutes relating to crimes and criminal procedure and create several new crimes. CTS assumes there may be some increase in the workload and costs to the courts. CTS would not anticipate a cost in excess of \$100,000 in any given year.

Officials from the **Office of the Attorney General (AGO)** assume the costs of handling any additional habeas actions are unknown but less than \$100,000; however, if the number of additional actions exceeds fifteen in any fiscal year, AGO projects that the cost would exceed \$100,000 in that fiscal year.

In response to a previous version of the proposal (HCS for HB 353, LR # 0830-05), officials from the **Department of Elementary and Secondary Education (DESE)** assumed there is no state cost to the foundation formula associated with this bill. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR 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 **Department of Corrections (DOC)** assume the proposal creates and enhances many crimes at various levels. The cumulative effect is expected to have a significant but unknown fiscal impact on the DOC.

The DOC cannot currently predict the number of new commitments which may result from the creation/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 (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 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).

ASSUMPTION (continued)

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and, therefore, 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 incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of \$100,000 per year.

Officials from the **Office of the Secretary of State (SOS)** assume the proposal would give the Department of Public Safety, Department of Health and Senior Services, and the Department of Agriculture the authority to adopt rules to implement the provisions of this act. These rules would be published in the Missouri Register and the Code of State Regulations. These rules could require as many as 34 pages in the Code of State Regulations and half again as many pages in the Missouri Register, as cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the Missouri Register is \$23 and the estimated cost of a page in the Code of State Regulations is \$27. Based on these costs, the estimated cost of the proposal is \$2,337 in FY 06 and unknown in subsequent years. 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.

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. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

In response to a previous version of the proposal (HCS for HB 353, LR # 0830-05), officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assumed the proposal would result in minimal programming costs. MHP assumes these costs would be absorbed within existing resources.

ASSUMPTION (continued)

Removes Requirement that Judge in a DWI Case be an Attorney (§§302.321, 302.541, 577.023, 577.500)

Officials from the **Department of Revenue (DOR)** assume they will be required to modify existing automated program edits in order to no longer edit to determine if the judge hearing certain cases is an attorney. These programming modifications will be accomplished with existing resources within the DOR.

Anhydrous Ammonia Additive Fund – Section 1

In response to a previous version of the proposal (HCS for HB 353, LR # 0830-05), officials from the **Department of Agriculture (AGR)** assumed there are approximately 200 anhydrous ammonia facilities in the state. AGR anticipates the need for ½ FTE Sr. Office Support person (each at \$22,292 per year) to be responsible for receiving disbursement requests with appropriate receipts/documentation, verifying information, coding requests for payment, sending disbursements to distributors, and working with Department of Revenue to ensure funds are used for purposes specified. AGR estimates the fiscal impact to be \$15,352 in FY 06 and approximately \$18,000 in subsequent years.

Oversight assumes the AGR could absorb the cost of the proposed legislation within existing resources. If the AGR experiences an increase that would require additional funding, the AGR could request the funding through the appropriation process.

HA 2 – Theft of Cable Television Service (§570.300)

In response to a similar proposal from the current session (SB 23, LR # 0053-01), officials from the **Office of State Public Defender (SPD)** assumed existing staff could provide representation for those few cases arising where indigent persons were charged with the criminal use of property by operating audiovisual recording devices while in a movie. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

ASSUMPTION (continued)

HA 4 – Distribution of Controlled Substance near a Child Care Facility or Park (§§195.214, 195.216)

In response to a similar proposal from the current session (HB 547, LR # 1560-01), officials from the **Department of Public Safety – Missouri State Highway Patrol, Department of Conservation**, and the **Springfield Police Department** assumed the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would make the distribution of a controlled substance in or near a park a class A felony. Some cases may become protracted. CTS would not anticipate a significant impact on the budget of the judiciary.

In response to a similar proposal from the current session (HB 547, LR # 1560-01), officials from the **Office of the State Public Defender (SPD)** assumed existing staff could provide representation for the enhancement of the penalty for distribution of a controlled substance near a park, making it a class A felony, in those few cases arising where indigent persons were charged. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

HA 6 – crimes of stealing, tampering, and receiving stolen property (§§559.105, 569.080, 569.090, 570.030, 570.040, 570.080)

In response to a similar proposal from the current session (HB 498, LR # 0788-02), officials from the **Department of Public Safety – Missouri State Highway Patrol** and the – **Missouri State Water Patrol** assumed the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume some cases may become prolonged. CTS does not anticipate a significant fiscal impact on the judiciary.

ASSUMPTION (continued)

In response to a similar proposal from the current session (HB 498, LR # 0788-02), officials from the **Office of State Public Defender (SPD)** assumed existing staff could provide representation for those few cases arising from the revision of various laws relating to stealing, receiving stolen property, and tampering and the requirement of specific type of restitution in certain types of cases, where indigent persons were charged. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

HSA 1 for HA 8 as Amended – 32 hour hold without being charged with an offense and held by warrant

In response to similar proposals from the current session (SB 520, LR # 1751-01 and HB 140, LR # 0667-01), officials from the **Department of Public Safety – Capitol Police**, and the – **Missouri State Water Patrol** assumed the proposal would have no fiscal impact on their agencies.

In response to similar proposals from the current session (SB 520, LR # 1751-01 and HB 140, LR # 0667-01), officials from the **Office of the State Public Defender (SPD)** assumed existing staff could provide representation for those few cases arising where indigent persons were charged from a proposed law requiring that a person arrested and confined without a warrant be discharged from custody within 32 hours unless charged. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

In response to a similar proposal from the current session (SB 520, LR # 1751-01), officials from the **Boone County Sheriff's Department** assumed they would incur a cost of \$62.50 per day in housing costs if an arrested person was held and no warrant was issued forcing the release of the person. Officials assume there is no way to anticipate if or how many times this might occur during a fiscal year.

In response to a similar proposal from the current session (SB 520, LR # 1751-01), officials from the **Jefferson City Police Department** assumed a savings would result due to personnel scheduling flexibility provided by an extension of the timeframe within which the probable cause warrant application is prepared.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Savings</u> – Reduced appropriations to State School Moneys Fund	Unknown	Unknown	Unknown
<u>Costs</u> – Office of State Courts Administrator Increased workload	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Office of the Attorney General Increased caseload	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Department of Corrections Incarceration/probation costs	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$100,000) to Unknown</u>	<u>(More than \$100,000) to Unknown</u>	<u>(More than \$100,000) to Unknown</u>
STATE SCHOOL MONEYS FUND			
<u>Savings</u> – Reduced distributions to local school districts	Unknown	Unknown	Unknown
<u>Losses</u> – Reduced appropriations from General Revenue Fund	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008

Provide that Probation and Parole may not convert certain consecutive sentences to concurrent sentences (§558.019);

Allow the court to extend probation for certain probation violators by one year (§§559.016, 559.036);

Create new sex offenses (§566.086);

Expand the crimes of endangering the welfare of a child (§§568.045, 568.050);

Remove the requirement that the judge in a DWI case must be an attorney in order to use the conviction to enhance punishment (§§302.321, 302.541, 577.023, 577.500);

Extend the statute of limitations for arson and arson-related (§§569.040, 569.050);

Make changes in search warrant procedure (§542.276);

Eliminate petition for early release (§558.016);

Create the Anhydrous Ammonia Additive Fund (Section 1); and

Create several other new crimes.

HA 1 – Change the laws regarding police reports of alcohol-related traffic offenses and the notification of license suspensions or revocation hearings. (§577.041)

HA 2 – Change the crime of theft of cable television service to include when a person knowingly attempts to connect to, tamper with, or otherwise interfere with any cable television signal, cables, wires, devices, or equipment which is used for the distribution of cable television and which results in the unauthorized use of a cable television system or the disruption of the cable television service. This violation would be a class C felony. (§570.300)

HA 3 – Create the Governor's Security Division within the State Highway Patrol. The division will provide transportation, security, and protection for the Governor and his or her immediate family. At the discretion of the Superintendent of the State Highway Patrol, the division may provide transportation, security, and protection for other public officials. (§§43.300, 43.310, 43.320, 43.330)

DESCRIPTION (continued)

BLG:LR:OD (12/02)

HA 4 – Create the crime of distribution of a controlled substance near a park, a class A felony. The crime would be committed when a controlled substance is sold within 2,000 feet of any public or private park. The proposal would also include child care facilities in the offense of distribution of a controlled substance near schools, a class A felony. (§§195.214, 195.216)

HA 6 – Make changes to the laws regarding the crimes of stealing, tampering, and receiving stolen property. (§§559.105, 569.080, 569.090, 570.030, 570.040, 570.080)

HA 7 – Director of public safety would have the authority to establish a state firearms training and qualification standard for retired law enforcement officers carrying concealed firearms. (§650.030)

HSA 1 for HA 8 as Amended – Currently, a person arrested and confined without a warrant or other process for breach of the peace or other criminal offense shall be discharged from custody within 20 hours unless he or she is charged with an offense and held by warrant. Under this act, such person would have to be discharged within 32 hours. (§433.170)

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 Agriculture
Office of the Attorney General
Coordinating Board for Higher Education
Office of Administration
Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Transportation
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Revenue
Department of Social Services

SOURCES OF INFORMATION (continued)

Department of Public Safety
– Missouri State Water Patrol
– Missouri State Highway Patrol
– Division of Fire Safety
Missouri House of Representatives
Department of Conservation
Office of Prosecution Services
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
State Treasurer's Office
Boone County Sheriff's Department
Springfield Police Department
Jefferson City Police Department
Parkway Public Schools
Southwest Missouri State University



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