

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0794-01
Bill No.: HB 726
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies
Type: Original
Date: March 12, 2007

Bill Summary: The proposal modifies various provisions regarding crime.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
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 OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
State School Moneys	\$0	\$0	\$0
Highway	(Less than \$388,750)	(Less than \$248,500)	(Less than \$244,375)
Total Estimated Net Effect on <u>Other</u> State Funds	(Less than \$388,750)	(Less than \$248,500)	(Less than \$244,375)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0 to Unknown	(Unknown) to Unknown	(Unknown) to Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, Department of Economic Development, Department of Health and Senior Services, Department of Revenue, Department of Public Safety – Director’s Office, Boone County Sheriff’s Department,** and the **Springfield Police Department** assume 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 or the Office of Prosecution Services.

Officials from the **Office of State Courts Administrator (CTS)** assume Section 50.565 of the proposal would allow the court to order a person to pay into the county law enforcement restitution fund for a moving violation.

CTS assumes that traffic cases are technically misdemeanors, and if this bill allows as an alternative to a traffic conviction, a defendant can get a suspended sentence for payment into the county law enforcement restitution fund, the potential volume could be in the thousands of cases.

CTS stated that if cases 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 fund, law enforcement training, and other earmarked funds. Currently, the total cost for a traffic ticket stands at \$56.50. This proposal would significantly increase the cost of those tickets where the fee was assessed.

CTS assumes Sections 479.260 and 488.5032 would allow courts to charge costs in some criminal and municipal cases where the charges are dismissed.

CTS assumes there are a number of new crimes created and some changes in criminal procedures, but CTS would not anticipate a fiscal impact in excess of \$100,000.

There would be an increase in the amount of moneys collected, but CTS has no way of quantifying that increase.

ASSUMPTION (continued)

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. 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. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the 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.

Officials from the **Department of Transportation (MoDOT)** assume Section 595.209.1(14) prohibits employers from requiring any witness, victim or member of a victim's immediate family to use vacation time or sick leave for honoring a subpoena to testify in a criminal proceeding, attending a proceeding or participating in the preparation of a proceeding for certain crimes. This section could have a negative fiscal impact on MHTC/MoDOT in cases where employees are absent from work for an extended period of time due a criminal proceeding. The amount of any such negative impact is uncertain and would vary on a case-by-case basis, but is assumed to be less than \$100,000 per fiscal year.

Officials from the **Department of Corrections (DOC)** assume they cannot currently predict the number of new commitments which may result from the creation 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 (FY06 average of \$39.43 per inmate per day, or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY06 average of \$2.52 per offender per day, or an annual cost of \$920 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 probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the creation of several new crimes and enhancements to others, it is assumed the impact would be more than \$100,000 per year for the DOC.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSHP)** assume the proposed legislation requires current Commercial Vehicle Officers to comply with the mandatory standards regarding police officer basic training and licensure. The required training is 600 hours for 15 weeks. The Commercial Vehicle Enforcement Division of the Missouri State Highway Patrol currently employs 141 Commercial Vehicle Officers.

The cost for providing the training is \$275 per week per student, which is equal to \$4,125 (\$275 x 15 weeks). The total cost to train the 141 Commercial Vehicle Officers would be \$581,625 (\$4,125 x 141 officers).

For CVO officers to have completed the training by July 1, 2010 per the legislation, a total of four training classes would need to be held with approximately 35 - 36 students per class and there would be two classes in FY 2008, one class in FY 2009 and one class in FY 2010.

MSHP estimates the costs as follows:

\$288,750 (\$4,125 x 70 officers) for FY 2008
\$148,500 (\$4,125 x 36 officers) for FY 2009
\$144,375 (\$4,125 x 35 officers) for FY 2010

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **Office of the State Public Defender (SPD)** assume this new crime will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the Kansas City Police Department and the St. Louis Metropolitan Police Department did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Savings</u> – Reduced appropriations to the State School Moneys Fund	\$0	Unknown	Unknown
<u>Costs</u> – Office of State Courts Administrator			
Administrative Costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
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>
STATE SCHOOL MONEYS FUND			
<u>Savings</u> – Reduced distributions to school districts	\$0	Unknown	Unknown
<u>Losses</u> – Reduced appropriations from General Revenue Fund	\$0	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<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.

FISCAL DESCRIPTION

The proposal modifies various laws regarding crime. In its main provisions, the proposal:

Adds any moving violation, as defined by Section 302.010, RSMo, to the list of infractions for which a court may order payment to the county law enforcement restitution fund (§ 50.565);

Expands protection for the elderly against financial exploitation (§ 192.925);

Adds Zopiclone, its salts, isomers, and salts of isomers to the list of Schedule IV controlled substances and adds Pregabalin to the list of Schedule V controlled substances (§ 195.017);

Creates the crime of distribution of a controlled substance near a park, a class A felony (§ 195.217);

Specifies that the Amber Alert System is to aid in the location of abducted children (§ 210.1012);

Requires a photograph to be taken of an incarcerated individual upon release and made available to the victim upon the victim's request (§ 217.439);

Allows offenders to appear before the Board of Probation and Parole by means of a video conference, rather than personal appearance, at the discretion of the board (§ 217.670);

Allows any offender to refuse parole that is conditioned on the performance of free work. Any county, city, person, organization, agency, or its employee who is charged with the supervision of free work or who benefits from its performance will be immune from any cause of action arising from his or her supervision of performance, except for an intentional tort or gross negligence (§ 217.690);

Gives Commercial Vehicle Officers peace officer powers and authority under certain conditions and specifies the training requirements for the Commercial Vehicle Officers (§ 304.230);

FISCAL DESCRIPTION (continued)

Specifies that any person convicted of criminal securities fraud will be fined an amount not to exceed \$1 million, be sentenced to a term of imprisonment not to exceed 10 years, or both. If the violation was committed against a disabled or elderly person, the offender will be fined an amount not to exceed \$50,000, be sentenced to a term of imprisonment not to exceed five years, or both (§ 409.5-508);

Allows a judge to order the defendant in a municipal or circuit criminal case to pay costs as determined in Section 488.012 (§ 479.260);

Removes the provision of law which allows a judgment to be entered against the prosecutor for the trial costs if the defendant is acquitted of the prosecution or the case is dismissed (§§ 545.050, 550.040);

Allows a judge to order a probationer, as a condition of probation, to be vaccinated for Hepatitis A and B at his or her local health department with the costs to be paid by the probationer (§ 559.021);

Revises the definitions of “domestic assault offense” and “intoxication-related offense” to include any offense committed in another state or any federal or military offense which, if committed in Missouri, would be considered a domestic assault offense or an intoxication-related offense (§ 565.063);

Changes the term “stealing-related offense” to include robbery and clarifies that a person who has pled guilty to or been found guilty of two separate stealing offenses, which were committed on two separate occasions, will be guilty of a class B felony (§ 570.040);

Increases the penalty for the crime of possessing child pornography from a class C felony to a class B felony (§ 573.937);

Creates the crime of false identification if a prisoner or offender knowingly and with the purpose to mislead gives a false name, date of birth, or Social Security number when identifying himself or herself to a person who is an employee of a jail or correctional center. False identification will be a class C felony (§ 575.075);

Increases the penalty for the crime of making a false report from a class B misdemeanor to a class A misdemeanor (§ 575.080);

FISCAL DESCRIPTION (continued)

Creates the crime of disarming a peace or correctional officer if a person intentionally removes from or deprives the peace or correctional officer of the use of his or her firearm or other deadly weapon while the officer is acting within the scope of his or her official duties. The crime, a class C felony, does not include situations in which the person does not know or could not reasonably have known that the person was a peace or correctional officer or if the officer was engaged in felonious conduct at the time of the disarmament (§ 575.153);

Prohibits the use or possession of an alcohol beverage vaporizer. Any substance that has been approved by the federal Food and Drug Administration as an over-the-counter or therapeutic drug product administered by an authorized medical practitioner is exempt (§ 578.255);

Requires the Peace Officer Standards Training (POST) Commission to make instruction available to peace officers on the investigation of crimes involving the use of a computer, the Internet, or both (§ 590.035);

Allows the Director of the Department of Public Safety to establish rules to implement the POST Program (§ 590.190);

Requires crime victims to be paid up to \$250 from the Crime Victims' Compensation Fund to replace clothing, bedding, or other personal items seized by law enforcement as evidence of a crime (§ 595.030);

Allows victims to be represented by an appointed person instead of appearing in person during the offender's parole and probation revocation hearings. The victim's appointee who honors any subpoena to testify in or attend a criminal proceeding is protected from discharge by any employer or from using vacation, personal, or sick leave to attend any criminal proceeding (§ 595.209);

Allows records and documents pertaining to internal investigations by a law enforcement agency on the fitness and conduct of a law enforcement officer employed by the agency used solely in connection with matters relating to the employment of the officer to remain confidential unless the records and documents are used in a criminal investigation (§ 610.021);

Allows the department to establish rules recommending procedures for issuing missing/endangered person advisories (§ 650.010);

Revises the continued educational training requirements of 911 telecommunicators from 16 hours in a two-year period to 24 hours every three years (§ 650.340); and

FISCAL DESCRIPTION (continued)

Specifies that the members of the Missouri Medal of Valor Board will be appointed by the Governor from a list submitted by the department director (§ 650.457).

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 Administration
– Administrative Hearing Commission
Office of State Courts Administrator
Department of Economic Development
Department of Elementary and Secondary Education
Department of Transportation
Department of Corrections
Department of Health and Senior Services
Department of Revenue
Department of Public Safety
– Missouri State Highway Patrol
– Director's Office
Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender
Boone County Sheriff's Department
Springfield Police Department

NOT RESPONDING

Kansas City Police Department
St. Louis Metropolitan Police Department



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