

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0593-13  
Bill No.: Truly Agreed To and Finally Passed SS #2 for SCS for HCS for HB 111  
Subject: Courts; Domestic Relations  
Type: Original  
Date: June 6, 2011

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Bill Summary: This proposal makes various changes relating to courts.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Basic Legal Services	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration, Office of Prosecution Services, Office of the State Courts Administrator, Office of the State Auditor, and the Department of Public Safety - Missouri Highway Patrol** each assume the proposal would not create a fiscal impact on their respective agencies.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Revenue (DOR)** state their response to a proposal similar or identical to this one in a previous session indicated DOR planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's tax systems, changes cannot be made without significant impact to the DOR's resources and budget. Therefore, DOR officials also provided an estimate of the IT cost to implement the proposal (Section 144.032). Officials from the **Office of Administration, Information Technology Services Division (ITSD/DOR)** state that implementing the IT portion of this proposal is estimated with a level of effort valued at \$26,712 (1,008 FTE hours X \$26.50 per hour).

**Oversight** assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

**Oversight** assumes this proposal authorizes hospital districts located within Iron County to abolish their existing property tax levies and, upon voter approval, impose a sales tax of up to one percent to fund the district (Sections 144.032 and 205.205). Oversight assumes if the voters were to approve a sales tax there would be revenue generated as well as costs related to holding an election. There would also be a reduction of revenue in hospital property tax. Oversight assumes if the citizens would approve a sales tax to fund the hospital district, the Department of Revenue would retain a 1% collection fee which would be deposited into the State's General Revenue Fund. The tax must receive voter approval before it could be implemented; therefore, Oversight assumes this part of the proposal is permissive and, by itself, would have no state or local fiscal impact.

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 fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Social Services** state the amendments to subsections 452.340.8 and 452.340.11 will require the Family Services Division to revise policy and forms. However, those changes can be accomplished with existing staff.

§570.080 & §578.150 (Crime of receiving stolen property & stealing leased property);

In response to a similar proposal from this year (SB 425), officials at the **Office of State Public Defender (SPD)** stated they could not assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the enhanced penalties for receiving stolen property.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding 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 SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the bill modifies and enacts various provisions of law under the title relating to the judiciary.

Due to the inability to find suitable housing for sex offenders, the additional restriction could result in a higher utilization rate of the Community Supervision Centers, Community Release Centers, and Residential Treatment Facilities.

The penalty provision component of this bill resulting in potential impact for DOC, is for up to a class B felony. Currently, the DOC cannot predict the number of new commitments which may result from the expansion 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.

Currently, the DOC cannot 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 direct offender cost either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

In response to previous versions of this proposal, DOC stated § 589.040 - offenders currently complete their treatment programs before being considered for parole or conditional release so passage of this proposal would not fiscally impact DOC.

§221.025, 544.455, 544.470, & 557.011 (Electronic Monitoring)

In response to previous versions of the proposal, officials from the **Department of Corrections (DOC)** stated § 221.025 allows the judge to sentence an individual to electronic monitoring as an alternative to confinement, this shall not be considered custody or incarceration for the purposes

ASSUMPTION (continued)

of eligibility for the MO Healthnet program or for an individual's health care plan. There would be no impact to the department from this section.

DOC stated § 544.455 1. (6) allows for any individual who is charged with a bailable offense to be placed on electronic monitoring. Any person that is placed on house arrest shall be charged all costs associated with electronic monitoring. If the judge finds that the individual is unable to afford these charges, the judge shall not order the person to be placed on electronic monitoring. Currently, the DOC can not predict how the prosecution and judges would utilize the use of electronic monitoring, but would be a savings to the department if more individuals were sentenced to electronic monitoring.

DOC stated § 557.011.6 allows that for a sentence of confinement a court may order that an individual shall serve all or any portion of such sentence on electronic monitoring, except that all costs associated with the electronic monitoring shall be paid by the individual. If the judge finds that the individual is unable to afford the costs associated, then the judge shall not order that the person be on house arrest with electronic monitors. Currently, the DOC can not predict how the prosecution and judges would utilize the use of electronic monitoring, but would be an unknown savings to the department if more individuals were sentenced to electronic monitoring.

In response to a similar proposal from 2010 (HB 2442), officials from **St. Louis County** stated the overall fiscal impact to Justice Services would be favorable. The cost benefit would be the potential for persons to be on Electronic Home Detention (EHD) as opposed to being in jail and the associated cost. However, a need would exist to hire an additional case manager to monitor persons on EHD as the number of persons on EHD increases. Reimbursement by the person on EHD and by the state would be critical to keeping the fiscal impact more manageable.

According to the Section 221.105, the Department of Corrections must reimburse a county for the actual cost of housing a prisoner, up to \$37.50 per day. The appropriation for this reimbursement to the county level from the Department of Corrections totaled \$38,060,616 for the current budget year (Section 9.265 of HB 2009), \$43,060,616 for FY 2010 and \$43,060,616 again in FY 2009.

This legislation states that the offender must pay for the electronic monitoring; therefore, **Oversight** will assume the proposal could result in net unknown savings to the General Revenue Fund. Oversight is also unsure of how many such offenders would be sentenced to house arrest under the new program. Oversight assumes the proposal would not have a fiscal impact to counties since they can receive reimbursement from the state for either jailed confinement under the current statutes or under the new option of house arrest with electronic monitoring under this

ASSUMPTION (continued)

new program.

§477.650 (Extension of sunset date for Basic Legal Services Fund);

In response to a previous version of this proposal, officials from the **Office of the State Courts Administrator (CTS)** stated the proposed legislation would extend the sunset of the Basic Civil Legal Services Fund from 2012 to 2018. The Basic Civil Legal Services Fund provides low income Missourians with equal access to the civil justice system. Moneys are paid to the Office of the State Court Administrator and credited to the fund, which is administered by the Supreme Court.

In addition to the other fees authorized by law, the clerk of each court collects fees on the filing of any civil and criminal action or proceeding, including an appeal: Supreme Court and Court of Appeals \$20.00; Circuit Courts \$10.00; Associate Circuit Courts \$8.00. The fund collects and disburses approximately \$3,000,000 in any given year.

According to reports from the Office of the State Treasurer, the Basic Civil Legal Services Fund (0757) had the following activity for the previous four fiscal years:

Year	Receipts / Transfers In	Disbursements / Transfers Out	Ending Balance
FY 2007	\$3,283,542	\$3,293,733	\$38,231
FY 2008	\$3,609,493	\$3,490,072	\$167,575
FY 2009	\$5,104,082	\$4,121,897	\$1,149,461
FY 2010	\$4,753,144	\$5,651,328	\$250,976
Average	\$4,187,565	\$4,139,258	

**Oversight** will reflect annual receipts and disbursements from the fund of \$4.1 million if the fund is not allowed to sunset (the bill is passed). Currently, the fund is set to expire on December 31, 2012; therefore, Oversight will reflect six months of activity in FY 2013 for the period of January 1, 2013 - June 30, 2013.

§484.350 (Update of standards for Guardians ad Litem);

In response to a similar proposal from this year (SB 237), officials from the **Department of Social Services (DOS)** stated this requires that the Missouri Supreme Court standards for representation by guardians ad litem be updated. The bill does not address how often they should be updated; just that they be updated from the standards originally adopted in September, 1996.

ASSUMPTION (continued)

The fiscal impact to the Children's Division and the Family Support Division is unknown. Updating the Supreme Court standards does not fall within the authority of the Children's Division or the Family Support Division. Without knowing what changes the Supreme Court might make to the existing standards, it is impossible to assess the fiscal impact, if any, to the Department of Social Services.

**Oversight** assumes the Supreme Court could make updates to the standards that would have no fiscal impact to the Department of Social Services. Oversight also assumes the bill simply requires the Supreme Court to update the standards and assuming the possible updates may create a fiscal impact to state agencies is speculative and not considered a direct fiscal impact of the proposal. Therefore, Oversight assumes the proposal would not have a fiscal impact.

§632.312 (Sheriffs to receive payment for transporting persons to/from mental health facility);

In response to previous versions of this proposal, officials from the **Department of Mental Health (DMH)** stated total costs for the proposed legislation are unknown and data does not exist to calculate the cost. Since many counties do not bill at all for mileage, calculating the potential costs of deputy time is impossible. It is possible that these entities would begin billing if they could recoup the “actual costs”, but whether they would is unknown. Other costs could also be included in the total actual cost. The proposed legislation would seem to allow a sheriff to seek reimbursement for any transport to and from a mental health facility whether or not the transport was the result of a court order as long as the transport was pursuant to Section 632, RSMo. The number and extent of such transports is unknown. Therefore, the DMH is unable to accurately calculate the cost. The DMH estimates an unknown cost, greater than \$100,000 annually.

DMH states the TAFP version of the bill adds ‘subject to appropriation’ language in Section 632.313. This relieves DMH from costs beyond current obligation levels should specific appropriations not be made. Therefore, this bill should create no fiscal impact to DMH.

In response to a similar proposal from this year (SB 428), officials from the **Boone County Sheriff's Office** stated this has the potential to provide very minimal revenues. Local established procedures have reduced the number of probate transports from the hospital to the courts and back to near zero. Video links have been established for mental health hearings.

ASSUMPTION (continued)

**Oversight** will assume the net savings to the state from electronic monitoring will be more than the potential costs to the Department of Mental Health for reimbursing local sheriffs for the transportation to/from mental health facilities plus the cost to the Department of Corrections for the increased penalties for receiving stolen property.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>GENERAL REVENUE FUND</b>			
<u>Savings - Department of Corrections</u>			
Nonviolent offenders sentenced to house arrest with electronic monitoring which is to be paid by offender (Sections 221.105, 544.455, 544.470, 557.011)	Unknown	Unknown	Unknown
<u>Costs - Department of Corrections</u>			
Supervision / incarceration for offenders (Sections 570.080 & 578.150) receiving stolen property & stealing leased property	(Less than <u>\$100,00</u> )	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>BASIC CIVIL LEGAL SERVICES</b>			
<u>Income</u> - Office of the State Courts Administrator			
The expiration date of the fund is moved from 2012 to 2018. (477.650)	\$0	\$2,050,000	\$4,100,000
<u>Expenses</u> - Office of the State Courts Administrator			
Proceeds of the fund are utilized according to Section 477.650	<u>\$0</u>	<u>(\$2,050,000)</u>	<u>(\$4,100,000)</u>
<b>ESTIMATED NET EFFECT TO THE BASIC CIVIL LEGAL SERVICES FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<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

### ELECTRONIC MONITORING (Sections 221.025, 544.455, 544.470, and 557.011)

The bill allows a judge to release a person before trial on electronic monitoring or order a person to serve part or all of a sentence of confinement on electronic monitoring. All costs associated with electronic monitoring will be charged to the person on house arrest. A judge may credit any period of electronic monitoring against any period of confinement or incarceration ordered; however, electronic monitoring will not be considered to be in custody or incarceration for purposes of eligibility for MO HealthNet benefits or for purposes of determining responsibility for the individual's health care.

A court may not place an individual on electronic monitoring in lieu of the required imprisonment, community service, or court ordered treatment program involving community service, if that individual is a prior, persistent, aggravated, or chronic offender sentenced pursuant to Section 577.023.

### BASIC CIVIL LEGAL SERVICES FUND (Section 477.650)

The bill extends the expiration date of the provisions regarding the Basic Civil Legal Services Fund from December 31, 2012, to December 31, 2018.

### RECEIVING STOLEN PROPERTY (Section 570.080)

The bill revises the punishment for the crime of receiving stolen property, a class A misdemeanor. If the value of the property or services stolen is \$500 or more but less than \$25,000 or a person physically takes the property from the victim or the property consists of certain specified items, the person will be guilty of a class C felony. The receipt of any item of property or services that exceeds \$500 may be considered a separate felony and may be charged in separate counts. Any person with a prior conviction for receiving stolen livestock or captive wildlife who violates those same provisions a subsequent time when the value of the animal stolen exceeds \$3,000 will be guilty of a class B felony and will be required to serve at least 80% of any sentence imposed before he or she is eligible for probation, parole, conditional release, or other early release by the Department of Corrections. Anyone committing an offense in which the value of the property or services is an element will be guilty of a class B felony if the value equals or exceeds \$25,000.

FISCAL DESCRIPTION (continued)

STEALING LEASED OR RENTED PROPERTY OFFENSES (Section 578.150)

The bill changes the crime of failing to return leased or rented property and changes the name of the crime to stealing leased or rented property.

The following actions are added to the list of offenses that constitute the crime if the person commits the offense with the intent to deprive the owner of the property: aiding or abetting the concealment of leased or rented property; selling, encumbering, conveying, pawning, loaning, abandoning, or giving away the leased or rented property without the written consent of the lessor or informing the person who receives the property that it is subject to a lease; and failing to pay lease charges after returning the property with the intent to deprive the lessor of the agreed upon charges.

Currently, it is evidence of the crime when a person who has leased or rented property, other than a motor vehicle, fails to return the property 10 days after the owner has sent written demand by certified or registered mail to the address provided in the lease agreement. The demand must include a statement that the failure to return the property may subject the person to criminal prosecution. The bill specifies that evidence of intent to commit the crime is established if the lessee uses a false; fictitious; or not current name, address, or place of employment in obtaining the property or if the lessee fails to return the property or pay the lease charges within seven days after written demand is sent by certified mail, return receipt requested, to the address provided in the lease agreement or the person's last known address.

Currently, failure to return leased or rented property is a class A misdemeanor unless the property is valued at \$500 or more, in which case it will be a class C felony. The bill increases the maximum property value so that the crime becomes a class C felony if the property is valued at \$1,000 or more.

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

L.R. No. 0593-13

Bill No. Truly Agreed To and Finally Passed SS #2 for SCS for HCS for HB 111

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SOURCES OF INFORMATION

Office of the State Courts Administrator

Department of Corrections

Office of the Attorney General

Department of Social Services

Office of the State Auditor

Department of Public Safety

Department of Revenue

Office of the State Public Defender

Office of Prosecution Services

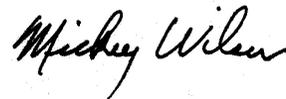
Department of Mental Health

Office of Administration

Office of the Secretary of State

Boone County

St. Louis County



Mickey Wilson, CPA

Director

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