

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1786-01
Bill No.: SB 387
Subject: Crimes and Punishment; Courts; Fees; Judges; Law Enforcement Officers and Agencies; Probation and Parole
Type: Original
Date: March 8, 2011

Bill Summary: This proposal allows a court to order a criminal offender to serve a sentence of confinement on electronic monitoring and to charge the state or the offender up to \$8 a day for such monitoring.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| General Revenue | Unknown | Unknown | Unknown |
| Total Estimated Net Effect on General Revenue Fund | Unknown | Unknown | Unknown |

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

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

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

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| | | | |
| | | | |
| 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 2012 | FY 2013 | FY 2014 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator**, **Office of Prosecution Services** and the **Office of the State Public Defender** each assume the proposal would not have a fiscal impact on their respective agencies.

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.

Officials from the **Department of Corrections (DOC)** state this bill proposes to allow a court to order a criminal offender to serve a sentence of confinement on electronic monitoring (EMP) and to charge the state or the offender up to \$8 a day for such monitoring.

If this bill is passed as law, Sheriffs would be able to place offenders on house arrest via EMP or shackling as an alternative to confinement in jail. In cases where the state is determined to be liable for cost, the state would be required to provide counties the reimbursement for total cost of the house arrest or shackling. The state currently reimburses counties for housing offenders in certain circumstances. It is unknown how many offenders to which this would apply and what the annual reimbursement expenditure would be.

There is a concern for language as it relates to DOC in calculating jail-time credit pursuant to §558.031., RSMo. It states that a "person shall receive credit toward the service of a sentence of imprisonment for all time in prison, jail, or custody after the offense occurred and before the commencement of the sentence ..." yet precedence holds that when a defendant is under house arrest while out on bond, he is not "in prison, jail or custody" and therefore is not entitled to credit toward his sentence for that time.

In summary, the fiscal impact for the DOC is unknown per each year.

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. **Oversight** assumes the proposal would result in a net savings to the state since the reimbursement for the cost of house arrest with electronic monitoring (\$8) would be

ASSUMPTION (continued)

lower than the reimbursement rate for jail confinement (\$37.50). Therefore, Oversight will assume the proposal could result in net unknown savings to the General Revenue Fund. Oversight is 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 new program

| <u>FISCAL IMPACT - State Government</u> | FY 2012 (10 Mo.) | FY 2013 | FY 2014 |
|---|-----------------------|-----------------------|-----------------------|
| GENERAL REVENUE | | | |
| <u>Savings</u> - Department of Corrections | | | |
| Nonviolent offenders sentenced to house arrest with electronic monitoring which is reimbursed at a less expensive rate than jail confinement. Also the judge may charge the individual in custody the cost of electronic monitoring as a condition of his or her sentence | Unknown | Unknown | Unknown |
| <u>Costs</u> - Department of Corrections | | | |
| Cost for the state to reimburse counties for house arrest via EMP or shackling | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| <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

This act allows a court to place an offender on electronic monitoring as an alternative to confinement. Any period of electronic monitoring shall be credited against any ordered sentence of confinement.

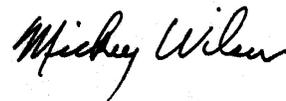
The cost of electronic monitoring may be billed to the state at up to \$8 per day or the judge may charge the costs as a condition of the offender's sentence unless the judge finds the person cannot pay.

The circuit court may adopt a local rule allowing for the pretrial release on electronic monitoring in lieu of confinement for anyone charged with a crime.

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 Corrections
Office of the State Courts Administrator
Office of the State Public Defender
Office of Prosecution Services
St. Louis County



Mickey Wilson, CPA
Director
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