

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5067-06
Bill No.: Perfected HCS for HB 1256
Subject: Attorneys; Cities, Towns and Villages; Counties
Type: Original
Date: April 11, 2012

Bill Summary: This proposal makes multiple changes to judicial procedures.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	Unknown could exceed \$100,000 to (Less than \$100,000)	Unknown could exceed \$100,000 to (Less than \$100,000)	Unknown could exceed \$100,000 to (Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	Unknown could exceed \$100,000 to (Less than \$100,000)	Unknown could exceed \$100,000 to (Less than \$100,000)	Unknown could exceed \$100,000 to (Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Missouri Office of Prosecution Services	Unknown	Unknown	Unknown
Office of the State Courts Administrator	(Up to \$100,000)	(Up to \$100,000)	(Up to \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown to (Up to \$100,000)	Unknown to (Up to \$100,000)	Unknown to (Up to \$100,000)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Treasurer, Attorney General's Office, Office of Administration - Budget and Planning, Department of Social Services, Office of Administration, Department of Revenue, Department of Labor and Industrial Relations, Missouri Department of Conservation, Department of Public Safety - Missouri Highway Patrol, Department of Transportation, Office of the State Auditor, Department of Mental Health, Administrative Hearing Commission, Office of the State Public Defender and Department of Insurance, Financial Institutions and Professional Registration** each assume the current proposal would not fiscally impact their respective agencies.

Officials from the **County of St. Louis** assume the current proposal would not fiscally impact their county.

Officials from the **City of Kansas City** assume the current proposal would not fiscally impact their city.

In response to a previous version of this legislation, officials from the **Jefferson City Police Department** assumed the proposal would not fiscally impact their department.

In response to a previous version, officials from the **Office of the Governor** assumed the proposal would not fiscally impact their agency.

Section 56.807

Officials from the **Office of State Courts Administrator (CTS)** assume this proposal would allow a \$4 surcharge for the Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund to be assessed and against persons who pled and paid a fine through a fine collection center.

Based on data for FY 11, CTS assumes there are approximately 124,183 fine collection center cases on which this \$4.00 surcharge could be applied. CTS anticipates the revenue from a \$4.00 surcharge would be approximately \$496,732 in any given year.

In response to a similar bill from last year, HB 396, officials from the **Prosecuting Attorneys and Circuit Attorneys Retirement System (PACARS)** assumed that based on the number of cases handled by the fine collection center for the fiscal year ending in June 2010, the proposal, if enacted, would increase the annual receipts of the PACARS by approximately \$832,000.

ASSUMPTION (continued)

Section 488.426

CTS also assumes this proposal would allow the Counties of Clay, Boone, Callaway, Greene, St. Louis and St. Louis City to charge up to a \$20 law library surcharge, the limit is now \$15.

There were 145,704 civil cases filed in these counties in FY 11. CTS anticipates the revenue from the additional \$5.00, to be approximately \$728,520 in any given year, if collections were 100%.

Oversight assumes this proposal is discretionary and would have no local fiscal impact without action by the governing body.

Section 588.019

Officials from the **Department of Corrections (DOC)** assume this proposal would change the provisions of the Sentencing Advisory Commission (SAC) and would eliminate the requirement of the SAC to establish and publish a system of recommended sentences. It is unknown what fiscal impact this could have on DOC.

Section 559.100

Officials from the **Office of Prosecution Services (OPS)** assume this proposal would require a \$5.00 surcharge for each crime victim to whom restitution is paid. The estimated minimal annual impact would be \$41,420, however the impact could be greater. OPS attempted to survey all 115 counties as to how many cases in FY 10 that restitution was ordered. It should be noted that restitution did not include cases of bad checks. OPS received responses from 57 counties. Of those counties, there were a total of 8,284 cases in which restitution was ordered. Assuming that the other 58 counties have similar numbers, the fiscal impact could be \$83,565 to \$115,020.

Oversight assumes for fiscal note purposes this legislation would be a positive unknown impact to OPS.

ASSUMPTION (continued)

Section 559.105.3

Officials from the **Department of Corrections (DOC)** assume this section of the proposal states that payment of restitution is made an absolute condition of parole; if more offenders are subject to restitution, there could be a greater number paroles denied due to failure to pay restitution. This would increase costs for the department, as offenders stay longer in facilities.

In summary, fiscal impact for DOC due to passage of this proposal is unknown per fiscal year.

Section 559.105.4

Officials from the **DOC** assume this section of the proposal would allow the DOC to take the restitution amount from the offender's inmate account while he/she is incarcerated. The language suggests the department could take the entire amount, if available, or take it in increments. However, the use of the word may in this section leads to an unclear determination as to who will make the decision to have the money deducted from the inmate account.

Oversight assumes this proposal is discretionary and would not have a fiscal impact without action by the agency.

House Amendment #1

Oversight assumes this proposal makes the punishment for trafficking cocaine the same regardless of whether the substance is powder or crack.

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

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with the enhanced penalties for trafficking cocaine.

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 effective representation in all cases.

ASSUMPTION (continued)

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Corrections (DOC)** state this bill would make the punishment for trafficking cocaine the same regardless of whether the substance is powder or crack.

This bill changes the weights necessary for enhanced punishment of cocaine-based drugs. Crimes for drug trafficking in this bill are punishable by up to class A felonies. Raising the minimum amount of drugs by eighteen (18) times the amount currently necessary in order to be charged with the existing crimes will reduce the amount of offenders sentenced to DOC. The potential amount of offenders cannot be estimated. A decrease in the commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

In summary, decrease in supervision by the DOC, either through probation or incarceration, would result in decreased costs to the department, but the exact positive fiscal impact is unknown per each fiscal year.

In response to other provisions from this year, the DOC stated the annual cost (FY 2011) for incarceration for an offender was \$6,160, while the annual cost for supervision through the Board of Probation and Parole is \$1,836.

Oversight assumes the annual savings realized by the DOC could exceed \$100,000 if twenty-three or more persons are not incarcerated (but receive probation) because of these changes.

House Amendment #2

Oversight assumes this amendment will add judiciary to the list of those in which the Department of Revenue cannot release home address information. Oversight also assumes this amendment will not have a fiscal impact on state or local governments.

House Amendment #3

Oversight assumes this amendment authorizes a public body to close certain foster care licensure data and requires the Children's Division to prepare a detailed report of specific information obtained in the licensure process. Oversight also assumes this amendment will not have a fiscal impact on state or local governments.

ASSUMPTION (continued)

House Amendment #4

Oversight assumes this proposal changes various sexual offenses involving persons less than seventeen years of age and minors.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state their Division of Drug and Crime Control (DDCC) states that during the preceding 27 months, the Computer Forensic Unit has examined computers or other devices associated with 29 sexual offender cases. Investigators spent 2,030 hours conducting these 29 examinations which comes to an average of 70 hours per case (2,030/29). This unit is currently staffed by two Sergeants and a Trooper and an average hourly salary was figured at \$28 per hour which equates to \$1,960 per case (70 x \$28). When the FY12 fringe benefit rate of 88.19% was included, the total amount per case was \$3,688 (\$1,960 + 88.19%). If the average number of cases per year (29/27 x 12) is multiplied by the total fiscal impact amount per case, the fiscal impact per year is \$47,531. DDCC believes these numbers to be on the low end as an investigator was added to the unit as a result of the merger with the Water Patrol.

The MHP assumes they could recoup roughly \$50,000 in forensic examination costs per year.

Oversight will assume an unknown amount of forensic examination expense would be recouped by both the state as well as local police and sheriffs departments. Oversight assumes the amount of recouped expenses to the state would be less than \$100,000 per year.

Officials from the **Department of Corrections (DOC)** state the penalty provision component of this bill resulting in potential fiscal 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 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 (FY11 average of \$16.878 per offender, per day, or an annual cost of \$6,160 per inmate) or through supervision provided by the Board of Probation and Parole (FY11 average of \$5.03 per offender, per day or an annual cost of \$1,836 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

ASSUMPTION (continued)

new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Department of Public Safety - Director's Office** assume that any costs associated with this proposal could be absorbed with existing resources.

Officials from the **Office of Prosecution Services** assume the proposal will have no measurable fiscal impact on their office. The creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Officials from the **Office of the State Courts Administrator, Office of Administration,** and the **Office of the State Public Defender** each assume the proposal would not fiscally impact their respective agencies.

House Amendment #3 to House Amendment #4

Oversight assumes amendment #3 would not change the fiscal impact of state or local governments of amendment #4.

House Amendment #5

Oversight assumes this amendment will increase the cost of transcripts by the court reporter.

Officials from the **Office of the State Courts Administrator** state that this will have a negative fiscal impact on the courts of up to \$100,000.

House Amendment #6

Oversight assumes this amendment will not fiscally impact state or local governments.

House Amendment #7

Oversight assumes this amendment will not fiscally impact state or local governments.

House Amendment #8

Oversight assumes this proposal revises the crime of property damage in the first degree to include damaging a motor vehicle while making entry into it to steal or when the damage occurs

ASSUMPTION (continued)

while committing the crime within the vehicle.

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

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons faced with the enhanced penalties for damaging a motor vehicle while making entry into it to steal it or to steal items within. 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 effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

In response to a similar proposal from 2011 (HB 802), officials from the **Department of Corrections (DOC)** stated this bill proposes to revise the crime of property damage in the first degree by including damaging a motor vehicle while making entry to steal it or when the damage occurs while the person is stealing within it.

The penalty provision component of this bill resulting in potential fiscal 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 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

ASSUMPTION (continued)

new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

House Amendment #9

Oversight assumes this amendment will not fiscally impact state or local governments.

Officials from the **Cities of Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Kennett, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Linn, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains** did not respond to Oversight's request for fiscal impact.

Officials from the **Counties of Andrew, Barry, Bates, Boone, Buchanan, Butler, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Hickory, Holt, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Pemiscot, Perry, Phelps, Platte, Pulaski, Scott, St. Charles, St. Francois, Taney, Texas, Warren, and Webster** did not respond to Oversight's request for fiscal impact.

Officials from the **Boone County Sheriff Department, Buchanan County Sheriff's Department, Clark County Sheriff's Department, Columbia Police Department, Independence Police Department, Jackson County Sheriff Department, Kansas City Police Department, Platte County Sheriff's Department, Springfield Police Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Police Department, St. Louis County Sheriff 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 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Savings</u> - Department of Corrections increase in the weight necessary for enhanced punishment of cocaine-based drugs (for crack cocaine).	Unknown - could exceed \$100,000	Unknown - could exceed \$100,000	Unknown - could exceed \$100,000
<u>Costs</u> - Department of Corrections Incarceration / Probation costs for persons charged with damaging a vehicle while trying to steal it or from within it	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Income</u> - court allowed to order a defendant to reimburse the state or local law enforcement agency for reasonable cost incurred in the examination of seized computers, cellular telephones and other devices.	Unknown - less than \$100,000	Unknown - less than \$100,000	Unknown - less than \$100,000
<u>Costs</u> - Department of Corrections Incarceration / Supervision of persons convicted of offenses in the bill	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>Unknown</u> <u>could exceed</u> <u>\$100,000 to</u> <u>(Less than</u> <u>\$100,000)</u>	<u>Unknown</u> <u>could exceed</u> <u>\$100,000 to</u> <u>(Less than</u> <u>\$100,000)</u>	<u>Unknown</u> <u>could exceed</u> <u>\$100,000 to</u> <u>(Less than</u> <u>\$100,000)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
OFFICE OF STATE COURTS ADMINISTRATOR FUND			
<u>Cost</u> - Increased fees for transcripts from court reporter	(Up to \$100,000)	(Up to \$100,000)	(Up to \$100,000)
ESTIMATED NET EFFECT ON OFFICE OF STATE COURTS ADMINISTRATOR FUND	<u>(Up to \$100,000)</u>	<u>(Up to \$100,000)</u>	<u>(Up to \$100,000)</u>
MISSOURI OFFICE OF PROSECUTION SERVICES FUND			
<u>Income</u> - Surcharge assessed per crime victim to whom restitution is paid.	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON MISSOURI OFFICE OF PROSECUTION SERVICES FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>FISCAL IMPACT - Local Government</u>			
LOCAL GOVERNMENT			
<u>Revenue</u> - Increase in surcharge contribution to Prosecution Attorneys and Circuit Attorneys Retirement System	\$413,943	\$496,732	\$493,732
<u>Expense</u> - Surcharge contribution to Prosecution Attorneys and Circuit Attorneys Retirement System	<u>(\$413,943)</u>	<u>(\$496,732)</u>	<u>(\$496,732)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<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 proposal makes multiple changes to judicial procedures.

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 State Courts Administrator
Office of Administration - Budget and Planning
Department of Revenue
Department of Social Services
Office of the State Treasurer
Office of the State Public Defender
Department of Mental Health
Office of Prosecution Services
Attorney General's Office
Department of Insurance, Financial Institutions and Professional Registration
Department of Public Safety
Department of Transportation
Missouri Department of Conservation
Administrative Hearing Commission
Department of Labor and Industrial Relations
Office of the Governor
Office of the State Auditor
Office of Administration
Department of Corrections
Prosecuting and Circuit Attorneys Retirement System
City of Kansas City
County of St. Louis
Jefferson City Police Department

L.R. No. 5067-06
Bill No. Perfected HCS for HB 1256
Page 14 of 14
April 11, 2012

NOT RESPONDING

Numerous Counties
Numerous Cities
Numerous Local Law Enforcement Agencies



Mickey Wilson, CPA
Director
April 11, 2012

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