

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5384-01
Bill No.: SB 732
Subject: Crimes and Punishment; Drugs and Controlled Substances
Type: Original
Date: February 27, 2012

Bill Summary: This proposal makes the punishment for trafficking cocaine the same regardless of whether the substance is powder or crack.

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 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 **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.

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 Department of Corrections 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 Department of Corrections could exceed \$100,000 if twenty-three or more persons are not incarcerated (but receive probation) because of these changes.

<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 <u>\$100,000</u>	Unknown - could exceed <u>\$100,000</u>	Unknown - could exceed <u>\$100,000</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	Unknown - could exceed <u>\$100,000</u>	Unknown - could exceed <u>\$100,000</u>	Unknown - could exceed <u>\$100,000</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<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

Under current law, a person commits the Class A felony of first-degree drug trafficking if such person distributes, delivers, manufactures or produces more than 150 grams of powder cocaine. The person is not eligible for probation or parole if the quantity of cocaine is more than 449 grams. Under a separate provision, a person commits the Class A felony of first-degree drug trafficking if the person distributes, delivers, manufactures, or produces more than 2 grams of crack cocaine and probation and parole are not available if the quantity is 6 grams or more.

Also, under the crime of second-degree drug trafficking, a person who possesses, purchases, or bring into the state more than 150 grams of powder cocaine is guilty of a Class B felony, which becomes a Class A felony if the quantity involved is 450 grams or more. Under a separate provision, the possession, purchase, or movement into the state of more than 2 grams of crack cocaine is a Class B felony, which becomes a Class A felony if the quantity involved is 6 grams

FISCAL DESCRIPTION (continued)

or more.

This act repeals the provisions specific to crack cocaine in the first- and second-degree drug trafficking statutes, so that the punishment for trafficking a certain amount of powder cocaine is the same punishment for trafficking the same amount of crack cocaine.

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 Prosecution Services
Office of the State Public Defender
Department of Corrections
Department of Public Safety



Mickey Wilson, CPA
Director
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