

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0556-01
Bill No.: HB 214
Subject: Courts; Crimes and Punishment
Type: Original
Date: February 12, 2013

Bill Summary: This proposal requires restitution to be paid through the office of the prosecuting or circuit attorney and authorizes certain administrative costs to be assessed and restitution to be taken from an inmate's account.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
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 2014	FY 2015	FY 2016
Missouri Office of Prosecution Services Fund	\$100,000	\$100,000	\$100,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$100,000	\$100,000	\$100,000

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
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 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

* Additional income and expenses for local political subdivisions.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Office of Prosecution Services (MOPS)** state this bill would have a positive fiscal impact on the Missouri Office of Prosecution Services. The estimated MINIMAL annual impact could be \$41,420. However the impact could be greater.

MOPS attempted to survey all 115 counties (which includes the City of St. Louis) as to how many cases in FY2010 that restitution was ordered. It should be noted restitution did not include cases of bad checks. Fifty-seven (57) counties responded to the survey. Of those 57 counties, there were a total of 8,284 cases in which restitution was ordered.

Assuming that the other 58 counties all have similar numbers, fiscal impact could be \$83,565 to \$115,020. The theory to determine the fiscal impact of HB 214 on the Missouri Office of Prosecution Services was to survey all counties as to how many cases there were in FY 2010 that restitution was ordered, then, add the total number of cases and multiple times the proposed minimum \$5.00 fee.

The counties that responded to the survey included: Adair, Andrew, Atchison, Audrain, Barry, Bates, Buchanan, Callaway, Camden, Cape Girardeau, Cedar, Christian, Clay, Cole, Cooper, Dade, Dent, Franklin, Gasconade, Gentry, Greene, Grundy, Harrison, Henry, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Laclede, Livingston, Maries, Marion, Mercer, Miller, Newton, Oregon, Osage, Pemiscot, Pike, Platte, Randolph, Ray, Ripley, Saline, Shelby, St. Charles, St. Francois, St. Genevieve, St. Louis City, St. Louis County, Stone, Taney, Warren, Worth, Wright.

Based upon the estimate provided by MOPS, **Oversight** will assume an additional \$100,000 of restitution paid to the Missouri Office of Prosecution Services Fund annually.

Officials from the **Department of Corrections (DOC)** did not respond to our request for fiscal impact. However, in response to a similar proposal from 2012 (HB 1382), DOC stated the bill enhances the restitution statute to include not only tampering and stealing offenses, but for any offense the courts so choose. Once the court orders restitution it is considered a mandate and the DOC is authorized to remove funding from the inmate's account (if it exists) while the defendant is incarcerated. Failure to pay mandated restitution may result in extension to the maximum term of parole which keeps the offender under supervision longer with Probation and Parole (P&P) or a revocation may mean time served in prison. Monitoring offender's restitution payment status is now enhanced for P&P staff since the volume of restitution cases will increase.

ASSUMPTION (continued)

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 \$5.12 per offender, per day or an annual cost of \$1,869 per offender).

In summary, passage of this bill has the potential for unknown costs for the DOC per each year.

Oversight assumes the cost anticipated by the DOC could exceed \$100,000 each year.

Oversight will assume the proceeds collected into the local Administrative Handling Cost Fund would be used in the same year by prosecuting attorneys and circuit attorneys.

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

Officials from the counties of Cass, Callaway, Clay, Greene, Johnson, Pettis and Platte did not respond to our request for fiscal impact.

This proposal could increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE			
<u>Costs - Department of Corrections</u>			
Potential longer incarceration, potential extension to the maximum term of parole (longer supervision) and additional monitoring of offender's restitution payment status due to removal of limiting restitution to only tampering and/or stealing offenses (Section 559.105)	(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 - State Government</u> (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
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**MISSOURI OFFICE OF
 PROSECUTION SERVICES FUND**

<u>Income</u> - \$5 per each crime victim to whom restitution is paid. (559.100.3)	<u>\$100,000</u>	<u>\$100,000</u>	<u>\$100,000</u>
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ESTIMATED NET EFFECT TO THE MISSOURI OFFICE OF PROSECUTION SERVICES FUND	<u>\$100,000</u>	<u>\$100,000</u>	<u>\$100,000</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
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**LOCAL POLITICAL SUBDIVISIONS
 - ADMINISTRATIVE HANDLING
 COST FUND**

<u>Income</u> - Administrative Handling Costs - Maximum of \$75 per restitution	Unknown	Unknown	Unknown
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<u>Income</u> - Installment Costs - \$2 per installment payment	Unknown	Unknown	Unknown
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<u>Costs</u> - prosecuting attorney or circuit attorney costs to implement provision of the bill in collecting restitution.	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT TO THE ADMINISTRATIVE HANDLING COST FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill requires restitution to be paid through the office of the prosecuting or circuit attorney. Each prosecuting or circuit attorney who takes action to collect restitution must assess the person paying restitution an administrative handling cost of \$25 for restitution in an amount of less than \$100, \$50 for an amount between \$100 and \$249, and an additional fee of 10% of the total restitution for an amount of \$250 or more. The maximum fee for administrative handling costs cannot exceed \$75. A \$2 installment cost must also be assessed for each installment payment, except for the first installment, until the amount of restitution is paid in full.

The moneys collected by the prosecuting or circuit attorney must be deposited into the newly created Administrative Handling Cost Fund to be expended by the prosecuting or circuit attorney for office supplies and equipment, capital outlay, trial preparation expenses, additional staff, and employees' salaries. In addition to the administrative handling cost, the prosecuting or circuit attorney must collect \$5 for each crime victim to whom restitution is paid to be deposited into the Missouri Office of Prosecution Services Fund.

Court-ordered restitution may be taken from an inmate's account at the Department of Corrections while the inmate is incarcerated; and upon release from imprisonment, the payment of any unpaid balance may be collected as a condition of conditional release or parole.

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
Department of Corrections
Office of the State Auditor

Not Responding:

counties of Cass, Callaway, Clay, Greene, Johnson, Pettis and Platte



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Ross Strobe
Acting Director
February 12, 2013

RS:LR:OD