

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

**L.R. NO.** 162-03  
**BILL NO.** Perfected HS for HCS for HB 107  
**SUBJECT:** Tort Victims Compensation Fund; Missouri CASA Fund  
**TYPE:** Original  
**DATE:** March 13, 2001

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Legal Services for Low-Income People	\$2,580,000	Unknown	Unknown
Tort Victims' Compensation	(\$2,907,056)	(\$335,751 to Unknown)	(\$344,269 to Unknown)
General Revenue*	(Unknown)	(Unknown)	(Unknown)
Missouri CASA	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$327,056 to Unknown)</b>	<b>(\$335,751 to Unknown)</b>	<b>(\$344,269 to Unknown)</b>

**\* SUBJECT TO APPROPRIATION**

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
<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 LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses  
This fiscal note contains 8 pages.

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**FISCAL ANALYSIS**

ASSUMPTION

**Assumptions in reference to component of proposal addressing Tort Victims' Compensation Fund**

In response to similar legislation (HCS for HB 107), officials from the **Office of State Courts Administrator** and the **Office of Prosecution Services** assume the proposed legislation would have no fiscal impact on their agencies.

In response to similar legislation (HS for HCS for HB 107), officials from the **Office of Administration - Division of General Services, Office of Administration - Division of Accounting, Office of Administration - Division of Budget and Planning, Department of Transportation** and the **Office of State Public Defender** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Social Services - Division of Budget and Finance** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Department of Revenue** assume the proposed legislation would have little or no administrative impact on their agency.

Officials from the **Department of Social Services - Division of Legal Services** assume the proposed legislation would not have a fiscal impact on their agency. Officials noted that if funds are available to Legal Services Corporations through the Tort Victims' Compensation Fund, it is assumed that the department will continue to be involved in the disbursement of general revenue funds appropriated by the Legislature for Legal Services Corporations and ensuring that the Legal Services Corporations submit required reports to the Legislature.

Officials from the **Department of Natural Resources** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of State Treasurer (STO)** assume the proposed legislation would have no fiscal impact on their agency assuming the STO would not be responsible for calculating, creating or distributing the payments.

Officials from the **Office of Secretary of State** assume this proposal creates a lien of 50% of certain punitive damages for the tort victims' compensation fund and the Legal Services for Low-Income People Fund which requires the Division of Workers' Compensation to promulgate ASSUMPTION (continued)

rules to implement the proposal. Based on experience with other divisions, the rules, regulations and forms issued by the Division of Workers' Compensation could require as many as approximately 24 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the *Code* because cost statements, fiscal notes and the like are not repeated in *Code*. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. Therefore, the estimated costs for FY 02 are \$1,476. The actual costs could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn.

In response to similar legislation (HCS for HB 107), officials from the **Office of Attorney General** noted that they do not know the number of claims that will be appealed to the LIRC and therefore, they do not know how many cases they will defend. Additionally, officials from the AGO do not know how many cases they might bring in subrogation. Officials assume that this number will be minimal and that costs can be absorbed.

Officials from the **Department of Labor and Industrial Relations - Division of Workers' Compensation** (DOL) assume the proposed legislation establishes responsibility in the Division of Workers' Compensation to administer and adjudicate claims of uncompensated tort victims against the Tort Victims' Compensation Fund.

The DOL will establish and maintain a Tort Victims' Compensation Unit to receive, process and make awards for uncompensated tort victims. The DOL will also establish and maintain a procedure to adjudicate these claims.

The impact of this program is very difficult to assess. In FY 98, the Office of the State Courts Administrator reported that 20,282 tort cases were disposed of. Over the last three fiscal years the average number of tort cases disposed of is 19,264 cases. This includes settlements, dismissals, defendants' verdicts, plaintiffs' verdicts, and default judgments. It is impossible to determine how many cases will result in a verdict for the plaintiff that are uncollectible. This type of data is not collected. It is also impossible to determine how many uninsured motorist claims will be filed as tort cases because of accessibility to these funds. Attempts to obtain this type of information were made with the Missouri Association of Trial Attorneys and the Missouri Department of Insurance, respectively concerning SB 464 in the 1999 legislative session.

ASSUMPTION (continued)

Funding for this program on an ongoing basis is questionable. The statute provides for 65% of

punitive damages awards in final judgments to be paid to the Division into the Tort Victims' Compensation Fund. Currently, there are moneys over seven million dollars (\$7,000,000) in the Fund. This funding came from two unusual cases in Kansas City where the plaintiffs and defendants absolutely refused to settle the claim. This information is from the Attorney General's Office. In most cases, the plaintiff and defendant settle any punitive damages, even after a jury award. This usually happens while the case is on appeal. Because the case is settled, there would be no final judgment and no payment to the Fund.

Since almost all cases involving tort claims involve claimant attorneys, it is assumed the potential for claims in cases of unsatisfied plaintiffs' judgements will be very high. For the purpose of this fiscal note, the DOL assumes 10% of all cases disposed of will result in claims against the fund. Based on information previously cited, this is an average of 1,926 claims filed per year (19,264 x 10%). This average is very close to the number of claims filed with the DOL's Crime Victims' Compensation program each year. In FY 96 a total of 1,652 claims were disposed of, in FY 97 a total of 2,206 claims were disposed of, in FY 98 a total of 1,688 claims were disposed of by the Crime Victims' Compensation program.

The DOL assumes the parameters of the Tort Victims' Compensation program in verifying medical, funeral and legal bills, verifying court action and other requirements to establish the validity of a claim under this proposal are also very similar to the manner in which crime victim's compensation claims are handled. For that reason, DOL assumed staffing needs similar to the Crime Victims' Compensation program would be needed to handle the claims process. This includes one (1) Program Manager, one (1) Clerk Typist IV and three (3) Clerk Typist III's. To ensure proper funding, this program must also employ one (1) Legal Counsel to ensure compliance with the statutory provisions and the myriad of legal issues involved in tort claims to ensure proper funding. In the fiscal note for the HCS for HB 107, the Division projected the need for three (3) Clerk Typist III's. In this HS, the Division added two (2) additional Clerk Typist III's. The HCS for HB 107 required the claimant to furnish medical records while the HS places this burden on the medical provider. Consequently, the shift in burden will require the Division to contact medical providers to obtain medical records. In any given case, it is expected that clerical staff will need to contact 3 to 10 various medical providers to get the requisite medical records.

In reference to expense and equipment requests of the DOL, **Oversight** has eliminated the rent expense, assuming these employees could be located in existing space; eliminated the office equipment associated with locating these employees separately from other DOL employees; and reduced the estimated cost of PC printers.

ASSUMPTION (continued)

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations

related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

**Oversight** notes that the balance in the Tort Victims' Compensation Fund as of January 31, 2001 was \$7,373,998. As a result of this proposal, Oversight assumes that 35% of this balance to be transferred to the Legal Services for Low-Income People Fund. This equates to approximately \$2,580,000. Oversight has reflected this figure in the fiscal impact specifications below for FY 02. Oversight assumes unknown impact in FY's 03 and 04.

**Assumptions in reference to component of the proposal addressing the CASA Fund**

In reference to similar legislation (HB 108), officials from the **Office of Administration - Division of Budget and Planning (BAP)** state that the proposed legislation should not result in additional costs or savings. The BAP officials did state there could be an impact on total state revenue.

In reference to similar legislation (HB 108), officials from the **Office of State Courts Administrator (CTS)** state the proposed legislation would create a fund for receiving and disbursing funds for support of CASA (court appointed special advocates) programs in the state. However, there is no defined revenue stream, just sources authorized. The CTS officials state since the income into the fund cannot be determined, all they can say is that income and expenses are unknown.

Officials from the **Office of State Treasurer (STO)** state the proposed legislation has no impact on their agency.

**Oversight** assumes the entire amount of funds transferred to the Missouri CASA Fund will be spent on programs. Oversight also assumes the amount appropriated to the CASA Fund by the General Assembly is unknown at this time.

FISCAL IMPACT - State Government

FY 2002      FY 2003      FY 2004  
(10 Mo.)

**LEGAL SERVICES FOR LOW-INCOME  
PEOPLE FUND**

AK:LR:OD:005 (9-94)

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Income - Punitive damage awards

Transfer from Tort Victims' Compensation Fund (35%)	\$2,580,000	Unknown	Unknown
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**TORT VICTIMS' COMPENSATION FUND**

Loss - Punitive damage awards

Transfer to Legal Services for Low-Income People Fund (35%)	(\$2,580,000)	(Unknown)	(Unknown)
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Cost - Labor and Industrial Relations

Personal Service (8 FTE)	(\$197,106)	(\$242,440)	(\$248,501)
Fringe Benefits	(65,695)	(80,805)	(82,825)
Equipment and Expense	(64,255)	(12,506)	(12,943)
Total costs - DOL	(\$327,056)	(\$335,751)	(\$344,269)

**ESTIMATED NET EFFECT ON  
 TORT VICTIMS' COMPENSATION  
 FUND**

<u>(\$2,907,056)</u>	<u>(\$335,751 to</u>	<u>(\$344,269 to</u>	<u>Unknown)</u>	<u>Unknown)</u>
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**FISCAL IMPACT IN REFERENCE TO COMPONENT OF PROPOSAL ADDRESSING  
 MISSOURI CASA FUND**

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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**GENERAL REVENUE FUND**

Loss - Transfer to the CASA Fund	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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-SUBJECT TO APPROPRIATION-

**MISSOURI CASA FUND**

<u>Income</u> - Transfer from General Revenue	Unknown	Unknown	Unknown
<u>Cost</u> - Expenditures on CASA Programs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

**Estimated Net Effect on  
 MISSOURI CASA FUND**

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

No direct fiscal impact on small businesses would be expected due to this proposal.

DESCRIPTION

This proposal creates the Legal Services for Low-Income People Fund which receives 35% of all payments to the Tort Victims' Compensation Fund. Moneys in the Legal Services for Low-Income People Fund shall be distributed to the legal services organizations in Missouri which are recipients of federal Legal Services Corporation funding. Funds shall be used by legal services organizations in Missouri to provide legal services to its low-income population in the manner approved by the board of directors of each legal services organization. Funds must be allocated according to the most recent official census data from the Bureau of Census for people in poverty residing in Missouri.

In addition, the proposal authorizes the Division of Workers' Compensation to make awards to uncompensated victims from 65% of payments to the fund. Awards are subject to certain limitations, including no award from the fund may exceed \$300,000. The proposal specifies procedures for filing claims and appealing determinations.

This proposal provides the definition of an "uncompensated tort victim". Any person receiving a final judgement of punitive damages in a Missouri state court must notify the Attorney General of the award. The State has a lien against one-half (50 percent) of the punitive damages awarded,  
DESCRIPTION (continued)

after deduction of attorney's fees and expenses, and of which funds are collected and deposited into the Tort Victims' Compensation Fund.

This proposal indicates how payment of claims from the fund shall be made.

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In addition, this proposed legislation establishes the Missouri CASA Fund in the state treasury, to be funded by appropriations from the General Assembly as well as gifts, contributions, grants, bequests, and other aid. The State Courts Administrator will administer and disburse the funds.

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 Labor and Industrial Relations - Division of Workers' Compensation  
Department of Natural Resources  
Department of Revenue  
Department of Social Services - Division of Budget and Finance  
Department of Social Services - Division of Legal Services  
Department of Transportation  
Office of Administration - Division of Accounting  
Office of Administration - Division of Budget and Planning  
Office of Administration - Division of General Services  
Office of Attorney General  
Office of Prosecution Services  
Office of Secretary of State  
Office of State Courts Administrator  
Office of State Public Defender  
Office of State Treasurer



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