

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1373-04  
Bill No.: HCS for SCS for SBs 420 & 344  
Subject: Civil Procedure; Courts  
Type: # Updated  
Date: May 3, 2005

# Updated to reflect revised responses received from the Office of Administration, Department of Transportation, and Office of the State Public Defender.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
# General Revenue	(\$262,570 to Unknown)	(\$746,163 to Unknown)	(\$1,198,571 to Unknown)
<b># Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$262,570 to Unknown)</b>	<b>(\$746,163 to Unknown)</b>	<b>(\$1,198,571 to Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 23 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
Legal Defense and Defender	More than \$171,518	More than \$244,808	More than \$248,768
# Road	\$0	\$0	\$0
# Legal Expense	\$2,083,333 to 3,750,000	\$2,500,000 to \$4,500,000	\$2,500,000 to \$4,500,000
Conservation	(Unknown)	(Unknown)	(Unknown)
PSC	(\$75,000)	(\$75,000)	(\$75,000)
<b># Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown) to More than \$3,846,518</b>	<b>(Unknown) to More than \$4,669,808</b>	<b>(Unknown) to More than \$4,673,768</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Local Government</b>	<b>(\$25,000 to \$29,167)</b>	<b>(\$30,000 to \$35,000)</b>	<b>(\$30,000 to \$35,000)</b>

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Department of Agriculture, Office of the Governor, Office of Administration – Administrative Hearing Commission, Coordinating Board for Higher Education, Department of Economic Development, Department of Elementary and Secondary Education, Department of Natural Resources, Department of Revenue, Department of Public Safety – Missouri Gaming Commission, – Missouri Veterans Commission, – Missouri State Water Patrol, Missouri Consolidated Health Care Plan, Department of Insurance, Joint Committee on Legislative Research, Joint Committee on Public Employee Retirement, Missouri House of Representatives, Office of the Lieutenant Governor, State Auditor’s Office, Missouri Senate, Office of the Secretary of State, State Treasurer’s Office, State Tax Commission, Boone County Sheriff’s Department, and the Kansas City Board of Elections** assume the proposal would have no fiscal impact on their agencies.

### Health Professionals – §§44.045 and 105.711

Officials from the **Department of Health and Senior Services (DHSS)** assume the bill would allow any licensed, registered or certified health care professional to be deployed to provide care during an emergency declared by the Governor or state legislature and will grant such professionals immunity from civil liability except in instances of gross negligence, or willful or wanton acts or omissions in rendering care. The proposal also allows DHSS to release information concerning health care professionals licensed by the Department to state, local and private agencies to facilitate deployment.

The DHSS employs numerous health care professionals that could be deployed pursuant to this legislation. Depending on the number of staff deployed and the duration of the deployment, there may be a fiscal impact that could exceed \$100,000, related to any temporary hiring, or overtime payment necessary to fill in for critical needs for clients of services. However, for purposes of this fiscal note, DHSS assumes the fiscal impact would be minimal.

The DHSS assumes that the fiscal impact of this legislation would be minimal. If a sizable fiscal impact were to result, funds to support the program would be sought through the appropriations process.

ASSUMPTION (continued)

State Legal Expense Fund – §105.711

Officials from the **Department of Transportation (MoDOT)** assume this section removes the Kansas City and St. Louis Police Departments from the “State Legal Expense Fund” created under section 105.711, RSMo. It also caps the payment amounts from the fund at \$2+ million dollars for all claims/judgments based upon the same alleged single cause, and five hundred thousand for any one claimant. This section makes any claim or final judgment collected from the legal expense fund against an officer or employee of the state, wherein the cause of action arises out of or in the scope and course of the employment, the exclusive remedy for any claim brought against an individual covered by this section. This will likely result in future litigants seeking the \$500,000 cap amounts against MoDOT employees and the \$300,000+ cap amounts against Missouri Highways and Transportation Commission (MHTC) or MoDOT in any tort actions. This may result in a reduction in the total fiscal impact to MHTC or MoDOT arising from tort actions.

# Officials from the **Department of Transportation** assume the proposal would have no fiscal impact on their agency.

# Officials from the **Office of Administration (COA)** assume the provisions regarding the St. Louis and Kansas City Police Commissioners liability, as written, still cover officers named in any suit to be covered under the Legal Expense Fund (LEF). This would effectively eliminate all of the estimated \$2 to \$4 million cost avoidance savings realized from excluding coverage of St. Louis and Kansas City Police officers.

# COA assumes the provisions regarding LEF Liability for state employees places caps on payments from the fund, but do not prevent judgments from being rendered by a state or federal court. Judgments against the state exceeding the cap could not be paid from the LEF, but would remain an obligation of the state and would presumably have to be paid through a supplemental appropriation decision item. Interest penalties could be applied.

# COA assumes the exclusive remedy provisions would protect the employee from suit for money damages if the state were also pursued as a party defendant. The employee is subject to federal causes of action regardless; however, they are limited to the \$500,000 cap provided under the LEF. Federal awards over this limit would be the personal responsibility of the employee. The Attorney General’s Office has advised that a plaintiff’s attorney could circumvent the intent of the exclusive remedy provisions by first seeking judgment against the employee personally and then file a claim against the LEF.

ASSUMPTION (continued)

# COA assumes the language in the proposal would allow payment up to \$500,000 per person for claims against the state and individual. Based on the \$9.5 million paid on cases over the past two years that have exceeded the sovereign immunity cap, the savings under the proposal would be approximately \$7,350,000.

# COA assumes the proposal would save \$2,500,000 to \$4,500,000 per year to the Legal Expense Fund. **Oversight** has prorated the FY 06 impact to reflect 10 months.

Child Protection – §§210.117 and 211.038

Officials from the **Department of Social Services – Division of Youth Services (DYS)** assume they return approximately 1,200 youth annually to a home placement. The cost of providing reasonable assurances that no person(s) sharing the youth's household has been found guilty or pled guilty to any of the referenced offenses is unknown, but expected to be less than \$100,000. This estimate is based upon implementing a system background checks or a signed assurance from the parent or legal guardian providing the home.

The monthly reimbursement rate for a youth receiving foster care services is \$377.50 per month, or \$4,530 per year. The number of youth who would require an alternative placement is unknown; however, if only 4% of youth are placed in a foster placement, the cost would be greater than \$200,000 per year.

When the offender is a minor, and the victim is not a sibling, the DYS is not able to estimate the cost of enforcing the provision requiring the offender to not reside within 1,000 feet of the victim's home, school or child care facility. The DYS is not able to estimate the cost of tracking the location of the victim until age 18.

DYS estimates the cost of the proposal for foster care to be approximately \$180,000 in FY 06, \$224,000 in FY 07, and \$230,000 in FY 08.

Alternative Sentencing – §217.860

Officials from the **Department of Corrections (DOC)** assume the fiscal impact for the DOC would result from the formation of a "Task Force on Alternative Sentencing" and paying the expenses reimbursed to members for personal expenses incurred (mileage, etc.) related to the performance of task force duties. Although the exact fiscal impact is unknown, it is estimated these costs would be less than \$100,000 per year.

ASSUMPTION (continued)

Judicial Circuits (23<sup>rd</sup>) – §478.550

Officials from the **Office of State Courts Administrator (CTS)** assume, beginning 1/1/2007, there will be two new circuit court judgeships in the 23<sup>rd</sup> judicial circuit by converting two associate circuit court judgeships to circuit court judgeships, and convert one family court commissioner and one drug court commissioner to associate circuit judgeships in that same circuit.

The cost for the two new circuit judgeships would be \$24,000 plus fringes. (Annual salary for a circuit judge is \$108,000, versus the annual salary of \$96,000 for an associate circuit judge or \$12,000 x 2)

Circuit court judges, by statute (§485.040), must appoint a court reporter; therefore, the legislation would also include costs for two court reporters.

Cases heard by associate circuit judges are heard on the record via electronic recording devices. There would be some, unquantifiable, costs related to transcribing these records for the three new associate circuit judges.

Since family court commissioners and drug court commissioners are paid at the associate circuit judge rate, there would be no additional salary for this provision.

The total cost for these provisions of the legislation is as follows:

- 1) Two circuit court judges: \$24,000 plus fringes,
- 2) Two court reporters: \$49,860 x 2 plus fringes.

Total cost for 12 months is \$123,720 plus fringes.

Additional transcribing costs which are unquantifiable at this time.

Judicial Circuits (11<sup>th</sup> and 17<sup>th</sup>) – §§478.570 and 478.600

Officials from the **Office of State Courts Administrator (CTS)** assumed the proposed legislation would create two new circuit court judgeships in the 11<sup>th</sup> judicial circuit by converting two associate circuit judgeships to circuit court judgeships, and convert two family court commissioners and one drug court commissioner to associate circuit judgeships in that same circuit.

ASSUMPTION (continued)

The cost for the two new circuit judgeships would be \$24,000 plus fringe benefits. (Annual salary for a circuit judge is \$108,000, versus the annual salary of \$96,000 for an associate circuit judge or \$12,000 x 2).

Circuit court judges, by statute (§485.040), must appoint a court reporter; therefore, the legislation would also include costs for two court reporters.

Cases heard by associate circuit judges are heard on the record via electronic recording devices. There would be some, unquantifiable, costs relating to transcribing these records for the three new associate circuit judges.

Since family court commissioners and drug court commissioners are paid at the associate circuit judge rate, there would be no additional salary for this provision.

CTS estimates the total cost for the legislation as follows:

1. Two circuit court judges: \$24,000 plus fringe benefits;
2. Two court reporters: \$49,860 x 2 plus fringe benefits.

Total cost for 12 months is \$123,720 plus fringe benefits.

3. Additional transcribing costs which are unquantifiable at this time.

CTS assumes the legislation would also add an additional associate circuit judge in Cass County beginning on January 1, 2007. The cost for this judge in FY 07 would be \$48,000 plus fringe benefits (six months). The cost in subsequent years would be \$96,000 plus fringe benefits per year at the present associate judge salary.

St. Louis City Circuit Clerk – §483.260

Officials from the **Office of State Courts Administrator (CTS)** assume the change in this section would eliminate payment to the attorneys for the circuit court in St. Louis City, saving the state \$25,000 per year in general revenue expenses.

ASSUMPTION (continued)

Passport Fees – \$483.537

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would allow circuit clerks to retain all fees relating to passport applications, as they had done until the passage of SB 1211 in 2004. SB 1211 provided for these fees to be distributed 80% to the state, and 20% to the county. While they do not have data available to provide an exact estimate of the amount realized from passport fees, CTS can estimate an approximate amount of \$150,000 – \$175,000 statewide in a given year. Thus, the passage of this legislation will result in a loss of 80% of this amount to the state, and 20% to the counties.

Court Costs – Various sections in chapter 488

Officials from the **Office of State Courts Administrator (CTS)** assume Section 488.5019 would impose a \$1.00 surcharge on criminal cases, payable to the legal defense and defender fund established in Section 600.090. Since some of these defendants often do not have steady employment or cash reserves, the court often gives them a period of time to pay the costs and fines. Therefore, the revenue generated the first year is less than that generated in subsequent years. Also, costs are rarely collected at a 100% rate, especially for felonies.

Based on a 50% felony collection rate, CTS calculations indicate that the legislation will produce \$205,822 in the 1<sup>st</sup> 12 months, \$244,808 in the 2<sup>nd</sup> 12 months, \$248,768 in the 3<sup>rd</sup> 12 months, and \$252,729 annually thereafter. Based on a 60% felony collection rate, CTS calculations indicate that the legislation will produce \$206,492 in the 1<sup>st</sup> 12 months, \$246,147 in the 2<sup>nd</sup> 12 months, \$250,777 in the 3<sup>rd</sup> 12 months, and \$255,407 annually thereafter.

Officials from the **Office of the State Public Defender (SPD)** assume §488.5019 will provide an unknown amount of income to the Legal Defense and Defender Fund (§600.090).



ASSUMPTION (continued)

Administrative Procedure – §§536.100 and 536.142

Officials from the **Office of the Attorney General (AGO)** assume the provisions of §536.142 will create an unknown number of personnel appeals to circuit court. Based on the current number of personnel cases, AGO assumes the need for 2 additional FTE Assistant Attorneys General II if the current appeals are taken to circuit court rather than through the administrative process. If most of the appeals continue to go through the current administrative process, then the cost of this proposal likely could be absorbed within existing resources.

**Oversight** assumes most appeals would continue to go through the current administrative process. If the proposal creates appeals to the circuit court, Oversight assumes the AGO would address any necessary personnel needs through the appropriations process.

Officials from the **Department of Transportation (MoDOT)** assume the trial de novo cases would take longer and cost more than a judicial review due to the need to prepare trial exhibits, the testimony of expert witnesses, etc. MoDOT assumes that there may be some petitions filed for a trial de novo as an alternative to seeking judicial review. These cases would have a negative unknown fiscal impact, however it is not expected to exceed \$100,000.

# Officials from the **Department of Transportation** assume the proposal would have no fiscal impact on their agency.

Officials from the **Department of Mental Health (DMH)** assume the changes to Chapter 536 would permit a full due process hearing before the circuit court after a full due process hearing before the Personnel Advisory Board (PAB) for disciplinary actions taken against state employees. The proposed legislation permits the discipline to be stayed pending the de novo review in state court.

ASSUMPTION (continued)

DMH assumes this will lengthen the time for liability for back pay if the Appointing Authority is reversed. The financial impact to DMH would be extremely burdensome. It would permit the employee to have two opportunities for due process costing the facilities and attorneys undetermined hours of preparation and litigation time. State Merit System rules have long established grievance procedures that allow for multiple levels of internal agency administrative review and investigation. At the end of that process, an unsatisfied aggrieved employee may appeal to the Personnel Advisory Board for a “non-agency” review of the circumstances. Since July 2003, DMH has had 144 PAB cases. No detailed tracking system exists to offer a record of the actual costs of preparing and handling each of those cases; however, factoring the attorney time for research and preparation of cases, the travel costs involved in meeting with witnesses for interviews, the cost of over-time for providing coverage for staff away from assigned workstations in order to provide witness testimony in the investigation process and at hearings, the clerical and managerial time involved in providing necessary assistance to the attorneys investigating and preparing these cases, etc. - the cost would be enormous. Projecting with any degree of accuracy the potential cost if this proposal if implemented is not possible given current data. The fiscal cost would be unknown.

Officials from the **Department of Corrections (DOC)** assume Office of Administration – Division of Personnel will address issues relating to merit employees and their employment rights, grievance abilities, administrative remedies, any resulting trials, etc. pursuant to this proposal. It is unknown what costs may be incurred by the state agencies due to these modifications.

Officials from the **Department of Labor and Industrial Relations (DOL)** assume the proposal will have a small fiscal impact on the Department. Any time there is an appeal from a personnel Advisory Board (PAB) opinion or a Missouri Commission on Human Rights (MCHR) decision there would be the potential for a jury trial. This would increase the litigation costs for PAB cases as the DOL attorneys would have travel and expenses and there may need to be additional depositions taken for the trial. The Department estimates that there would be less than one PAB trial de novo per year. While there may be many trial de novo cases arising out of the MCHR decisions, the cases would be handled by the Attorney General’s office with some limited expenses paid by MCHR. The Department estimates the cost would be unknown under \$10,000.

ASSUMPTION (continued)

Officials from the **Department of Social Services – Human Resource Center** assume the proposal could potentially double the current workload for the legal counsel assigned to employment cases. An additional legal counsel would be needed to handle this caseload. An additional Senior Office Support Assistant (Keyboard) position would be needed to handle the increased workload associated with these cases. The estimated costs are approximately \$93,000 in FY 06, \$102,000 in FY 07, and \$104,000 in FY 08. These costs are divided among General Revenue (64%) and Federal Funds (36%).

Officials from the **Department of Conservation (MDC)** assume the proposal would have an unknown, but possibly significant impact upon MDC funds. These sections create a right to a circuit court trial de novo of administrative contested matters and administrative employment proceedings. Such a proceeding would require duplicative evidentiary proceedings resulting in potentially significant legal expenses. Additionally, the expansion of venue options for the plaintiff may increase the agency's expenses as would potential fiscal impacts of a court imposed stay on agency final decisions. In one recent case, a court stay upon an administrative decision to uphold an employee termination required the agency to continue paying the salary of a terminated employee for over a year. MDC estimates that as many as six employment trial de novo proceedings could occur annually.

Officials from the **Department of Economic Development – Public Service Commission (PSC)** assume this legislation would impact the PSC by requiring additional litigation after a PAB hearing via a trial de novo in Circuit Court. This would entail a new hearing in Circuit Court prior to judicial review.

PSC's General Counsel Office estimates additional resources will be necessary to handle the de novo appeals permitted by Sec. 536.142 RSMo in this legislation. It is estimated the PSC will have 2 de novo appeal cases per year based on an assumption that 1% of current staff will seek such appeals. Each case will require 150 hours of legal time for research, depositions of multiple witnesses, responding to discovery requests from counsel, court preparation time and court time. Consequently 300 staff hours at \$250/hour for outside legal counsel at a current contract rate amounts to a final estimate of \$75,000 annually.

ASSUMPTION (continued)

Not reflected in the fiscal worksheet is the fact that the PSC's HR Department estimates that it may incur an additional workload to address the provisions of this proposed legislation, which is estimated to be approximately 76 hours per case, or 152 per year, for: copying materials, preparing information for attorneys, pulling records (12 hours per case), meetings to review information with attorneys, other PSC staff (40 hours per case); participating in depositions and preparation for the depositions (10 hours per case) and time spent in court (16 hours per case). This expense probably will be incurred in paid overtime.

PSC estimates the costs as follows: 2 cases per year to reflect 1% of current staff level at 300 annual hours at \$250/hour estimated contractual hourly rate equals \$75,000. HR Department may incur additional workload to address the provisions of this proposed legislation; estimated to be 80 hours per year depending on caseload.

**Oversight** assumes various state agencies could experience increased litigation costs as a result of the provisions in these sections. Oversight has shown the aggregate amount for state agencies as an unknown cost to the General Revenue Fund.

Peace Officers/POST Commission – §§590.080, 590.120, and 590.180

Officials from the **Department of Public Safety – Director's Office** assume the proposal would increase the POST Commission from nine to eleven members. Officials assume they would incur the additional cost of the two members attending meetings. Officials estimate the cost to be approximately \$2,300 in FY 06 and \$2,800 in FY 07 and FY 08.

Public Defender – §§600.042 and 600.086

Officials from the **Office of the State Public Defender (SPD)** assume the additional language in §600.086.6 allows courts to deny a public defender's motion to withdraw, even when the defendant is not indigent, for the "orderly administration of justice." This proposed change in the statute will add to the already excessive public defender caseload, because public defenders will be required to represent non-indigent defendants.

The SPD assumes a 15% increase in the projected FY 2006 caseload, increasing the number of trial division cases by 14,855. Applying the standard of 235 cases per attorney per year to the increase, the result is a need for 63 additional FTE attorneys and appropriate support staff (21 FTE Paralegal/Investigators and 13 FTE Secretaries). The new staff will provide legal representation to the non-indigent under the proposed language in 600.086.6.

ASSUMPTION (continued)

The SPD estimates the cost for the 97 FTE to be \$5,400,000 in FY 06, \$6,500,000 in FY 07, and \$6,800,000 in FY 08.

# Officials from the **Office of the State Public Defender (SPD)** assume the provisions in these sections would have no impact on the SPD.

DNA Profiling Analysis – §650.055

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume their impact for the proposed legislation is unknown. Currently, the DNA Profiling fund is only generating \$80,000 to \$100,000 per month of the anticipated \$150,000 per month that it was originally thought it would collect. Because of this circumstance and the cost to run the DNA Profiling program, there would not be a ‘remaining’ balance in the DNA Profiling fund to pay the cost of restitution. The legislation, as written with the 5-year limit and the effective date of August 28, 2000, would result in 3 individuals being able to collect the \$50.00 per day restitution and the cost of that is approximately \$676,600. Unfortunately, the fund would not have that balance remaining. It is not expected that there would be any type of lapse in the fund on a yearly basis because it would take all of the money being collected to run the DNA Profiling program. Since the balance of the fund wouldn’t be enough to pay the restitution, there is no impact for the Highway Patrol. There is no way to know, in the years a balance could possibly exist, how much would be available to pay restitution. There is also no way to determine how many people would be affected in the future.

**Oversight** assumes the proposal extends the time to file a petition for restitution from the DNA Profiling Analysis Fund. Since there has been no lapse, Oversight assumes there would be no impact to the Missouri State Highway Patrol.

Judicial Circuits (29<sup>th</sup> and 42<sup>th</sup>) – Sections 4 and 5

Officials from the **Office of State Courts Administrator (CTS)** assume the bill would create a state-funded family court commissioner in the 29<sup>th</sup> judicial circuit, at an annual cost of \$96,000 plus fringes (the same salary as that of an associate circuit court judge); and an additional state-funded drug court commissioner in the 42<sup>nd</sup> judicial circuit at an annual cost of \$96,000 plus fringes.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> – Office of State Courts Administrator (CTS)			
Personal Service (4 FTE Associate Circuit Judge positions) (§§478.550 & 478.600)	\$0	\$201,720	\$413,526
Fringe Benefits (§§478.550 & 478.600)	\$0	\$112,480	\$230,582
Payments to attorneys (§483.260)	<u>\$20,833</u>	<u>\$25,000</u>	<u>\$25,000</u>
<u>Total Savings</u> – CTS	\$20,833	\$339,200	\$669,108
<u>Costs</u> – CTS			
Personal Service (4 FTE Circuit Judge positions) (§§478.550 & 478.600)	\$0	(\$226,935)	(\$465,217)
Personal Service (1 FTE Associate Circuit Judge position) (§478.570)	\$0	(\$50,430)	(\$103,382)
Personal Service (2 FTE court commissioners) (Sections 4 & 5)	\$0	(\$100,860)	(\$206,763)
Personal Service (4 FTE Court Reporter positions) (§§478.550 & 478.600)	\$0	(\$104,769)	(\$214,775)
Fringe Benefits	\$0	(\$255,593)	(\$523,964)
Equipment and Expense	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Total Costs</u> – CTS	\$0	(\$738,587 to Unknown)	(\$1,514,101 to Unknown)

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
<b>GENERAL REVENUE FUND</b>			
<b>(continued)</b>			
<u>Costs</u> – Department of Social Services			
Foster care (§§210.117 & 211.038)	(\$181,128)	(\$223,963)	(\$230,682)
<u>Costs</u> – Department of Public Safety			
Expenses of POST Comm (§590.120)	(\$2,275)	(\$2,813)	(\$2,896)
<u># Costs</u> – Office of the State Public Defender			
# Personal Service	\$0	\$0	\$0
# Fringe Benefits	\$0	\$0	\$0
# Equipment and Expense	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u># Total Costs</u> – SPD	\$0	\$0	\$0
<u>Costs</u> – Various State Agencies			
Litigation costs (§§536.100 & 536.142)	(Unknown)	(Unknown)	(Unknown)
<u>Losses</u> – Office of State Courts Administrator			
Passport fees (§483.537)	(\$100,000 to <u>\$116,667</u> )	(\$120,000 to <u>\$140,000</u> )	(\$120,000 to <u>\$140,000</u> )
<b># ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$262,570 to Unknown)</u></b>	<b><u>(\$746,163 to Unknown)</u></b>	<b><u>(\$1,198,571 to Unknown)</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
 <b>LEGAL DEFENSE AND DEFENDER FUND</b>			
 <u>Revenues</u> – Office of State Courts Administrator			
Surcharge on criminal cases (\$488.5019)	More than <u>\$171,518</u>	More than <u>\$244,808</u>	More than <u>\$248,768</u>
 <b>ESTIMATED NET EFFECT ON LEGAL DEFENSE AND DEFENDER FUND</b>	 <b><u>More than</u> <u>\$171,518</u></b>	 <b><u>More than</u> <u>\$244,808</u></b>	 <b><u>More than</u> <u>\$248,768</u></b>
 <b># ROAD FUND</b>			
 <u># Costs</u> – Department of Transportation			
# Increased litigation (§§105.711. 536.100, & 536.142)	\$0	\$0	\$0
 <b># ESTIMATED NET EFFECT ON ROAD FUND</b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>
 <b># LEGAL EXPENSE FUND</b>			
 <u># Savings</u> – Office of Administration			
# Reduced liability and claims	\$2,083,333 to <u>3,750,000</u>	\$2,500,000 to <u>\$4,500,000</u>	\$2,500,000 to <u>\$4,500,000</u>
 <b># ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND</b>	 <b><u>\$2,083,333 to</u> <u>3,750,000</u></b>	 <b><u>\$2,500,000 to</u> <u>\$4,500,000</u></b>	 <b><u>\$2,500,000 to</u> <u>\$4,500,000</u></b>



<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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**CONSERVATION FUND**

<u>Costs – Department of Conservation</u> Litigation costs (§§536.100, 536.142)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON CONSERVATION FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
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**PSC FUND**

<u>Costs – Public Service Commission</u> Litigation costs	<u>(\$75,000)</u>	<u>(\$75,000)</u>	<u>(\$75,000)</u>
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<b>ESTIMATED NET EFFECT ON PSC FUND</b>	<b><u>(\$75,000)</u></b>	<b><u>(\$75,000)</u></b>	<b><u>(\$75,000)</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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**POLITICAL SUBDIVISIONS**

<u>Losses – Counties</u> Passport fees (§483.537)	<u>(\$25,000 to \$29,167)</u>	<u>(\$30,000 to \$35,000)</u>	<u>(\$30,000 to \$35,000)</u>
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<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>	<b><u>(\$25,000 to \$29,167)</u></b>	<b><u>(\$30,000 to \$35,000)</u></b>	<b><u>(\$30,000 to \$35,000)</u></b>
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FISCAL IMPACT - Small Business

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

## DESCRIPTION

The proposed legislation modifies numerous provisions regarding judicial procedures and personnel:

Health Professionals – §§44.045 and 105.711 – Health care professionals who volunteer to be deployed in a state emergency may be deployed and otherwise confidential contact information may be released to facilitate such deployment. Any claim against the professionals based on acts or omissions during the period of deployment are covered under the State Legal Expense Fund.

Notice of Foreclosure – §92.755 – Requires a notice of foreclosure in suits for delinquent land taxes in Kansas City and St. Louis to be posted on the affected property.

State Legal Expense Fund – §105.711 – Exempts the police boards of Kansas City and St. Louis City from coverage under the fund. Modifies the limit of coverage under the fund to pay a claimant in a claim or judgment against an officer or employee of the state or a state agency. If payment is made from the fund, such payment shall be the exclusive remedy for the claimant.

Child Protection – §§210.117 and 211.038 – This act prohibits a child, who has been taken into the custody of the state or the jurisdiction of a juvenile court, from being reunited with a parent or being placed back in the home in which the parent or any person living in the home has been found guilty or plead guilty to certain sexual offenses or offenses against the family when a child was the victim. The Child Support Division may exercise discretion in the placement of a child in a home with a parent when the parent or person living in the home has been found guilty or plead guilty for similar offenses in another state. The act prohibits a minor from residing within a certain distance of a child abused by the minor.

Safe Place for Newborns – §210.950 – Extends the affirmative defense to prosecution for voluntary relinquishment of a child no more than one year old. Currently, the child must be between six and thirty days old.

Alternative Sentencing – §217.860 – Establishes the Task Force on Alternative Sentencing within the Department of Corrections and provides that the primary duty of the task force is to develop a statewide plan for alternative sentencing programs for nonviolent offenders.

Transportation District – § 238.216 – Requires a verified petition to be submitted in order to form a transportation district.

DESCRIPTION (continued)

Child Support – §452.340 – Authorizes a court to enter a judgment abating child support for a period of up to five months for any semester in which a child completes at least six but less than 12 credit hours when a child has pursued a path of continuous attendance at an institution of higher learning and has demonstrated evidence of a plan to continue the attendance. Further, the act changes the review of the child support guidelines from every three years to every four years.

Orders of Protection – §455.516 and 455.524 – The act provides that child orders of protection may be issued for at least 180 days and up to one year. Further, the court shall retain jurisdiction over a full order of protection for a child for the duration of the order and allows the court to schedule compliance review hearings to monitor compliance with the order.

Nonprobate Transfers – §461.005 – This act states that the term “owner” when used to define a person having a right to create a beneficiary deed shall include any such person, regardless of the terminology used to refer to the owner in the deed. This act will apply to all beneficiary deeds, including those executed prior to August 28, 2005.

Standby Guardians – §§475.010, 475.045, and 475.046 – Authorizes a court to appoint a standby guardian to temporarily assume the duties of guardian of a minor child, which becomes effective on the disability, incapacitation, or death of the appointing parent or guardian.

Probate Judges – §§472.060 and 478.255 – Applies current replacement procedures to disqualified probate judges.

Judicial Circuits – §§478.550, 478.570, and 478.600 – The act increases the number of circuit judges in the 11th and 23rd judicial circuits from 4 to 6 beginning January 1, 2007. The family court and drug court commissioner positions in those circuits shall become associate circuit judge positions beginning on January 1, 2007. Further, there will be one additional associate circuit judge in Cass County beginning January 1, 2007.

Passport Fees – §483.537 – The act requires clerks who process passport applications and collect a fee for the processing to account for the expenditure of the fee in an annual report to the presiding judge and the Office of State Courts Administrator. The fees may only be used for the maintenance of the courthouse or to fund operations of the circuit court.

Notary Public – §486.200 – Adds attorneys licensed to practice law in this state to the definition of “notary public.”

DESCRIPTION (continued)

Court Costs – Various sections in chapter 488 – No court in this state that is authorized to collect court costs is required to refund any overpayment of less than \$5 or collect any due court costs of less than \$5. The circuit court may retain any overpayment for operation of the circuit court. The act removes an effective date for a municipality or county to enact an ordinance to impose a domestic violence shelter surcharge on marriage licenses and civil cases filed in circuit court. Currently, such ordinance had to be in effect prior to January 1, 2001. For any county or city with a domestic violence shelter or whose residents are in a shelter located in another county, the domestic violence shelter surcharge may be assessed in any criminal case, including violations of any county or municipal ordinance. The act authorizes a circuit court to contract with a private entity operated under a contract with a state agency or the office of state courts administrator. Further, a one dollar surcharge shall be assessed in all criminal cases, which shall be paid to the legal defense and defender fund.

Jury Duty – §§494.430 and 494.432 – Health care providers and employees of religious institutions may be excused from jury duty upon timely application to the court. Courts must specify the date a prospective juror will appear for jury service before granting a postponement.

Statute of Limitations – §516.030 – An action for prevailing wages by a workman must be brought within three years.

Unlawful Detainer Actions – §534.090 – The service of summons in an unlawful detainer action will be delivered by ordinary, rather than certified, mail. If the officer assigned to execute the summons returns to the court with information that the defendant cannot be found and with proof by affidavit that the summons was mailed, the judge will proceed to hear the matter as if personal service had been made.

Administrative Procedure – §§536.100 and 536.142 – Allows a person who is aggrieved by a final decision in a contested case regarding the employment of any employee of the state or its political subdivisions to petition the court for a trial de novo as an alternative to seeking judicial review of the decision.

Housing of Defendants – §545.550 – Sheriffs are authorized agree as to which county will house a defendant after a change of venue.

Bifurcated Jury Trials – §557.036 – The act eliminates the bifurcated jury trial proceeding in criminal cases.

DESCRIPTION (continued)

Peace Officers/POST Commission – §§590.080, 590.120, and 590.180 – A peace officer may be disciplined for engaging in gross misconduct while not on active duty that involves moral turpitude or a reckless disregard for the safety of the public or any person. The act adds two rank-and-file peace officers to the Peace Officer Standards and Training (POST) Commission. No two members of the Commission shall be from the same law enforcement agency. The Commission may inform prospective employers of an applicant's prior employment with law enforcement agencies.

Public Defender – §§600.042 and 600.086 – Adds to the list of persons that the State Public Defender is required to provide representation, including persons seeking post conviction relief and certain indigent persons seeking a hearing based on DNA evidence or a hearing seeking release from confinement based on mental illness. Further, up to ten days prior to trial, the public defender may withdraw representation if the defendant becomes financially able or the means to acquire counsel.

DNA Profiling Analysis – §650.055 – Individuals who are determined to be actually innocent because of DNA testing after August 28, 2000, have five years from the date of release to file a petition for restitution. Currently, the individuals are required to file a petition for restitution within one year of release.

Personal Information on the Internet – Section 1 – The act prohibits a court or a state or local agency from releasing personal information of certain elected and appointed officials on the Internet. It shall be a class C misdemeanor if any person knowingly posts personal information on such officials on the internet.

Practice of Law – Section 2 – Banks or lending institutions that make residential loans and impose a fee of less than \$200 for processing the application shall not be considered as engaged in the practice of law.

Courts Commissioner Training – Section 3 – The Office of State Courts Administrator shall establish a training program for court commissioners to train them as different types of court commissioners. Upon completion of the training, the presiding judge may temporarily assign such commissioner to serve as a commissioner in a different classification.

29<sup>th</sup> Judicial Circuit – Section 4 – The act creates a state-funded family court commissioner position in the 29<sup>th</sup> judicial circuit.

DESCRIPTION (continued)

42<sup>nd</sup> Judicial Circuit – Section 5 – The act creates a state-funded drug court commissioner position in the 42<sup>nd</sup> judicial circuit.

23<sup>rd</sup> Judicial Circuit – Section 6 – Any drug court commissioner appointed in the 23<sup>rd</sup> judicial circuit will be a state-funded position.

St. Louis City Circuit Clerk – §483.260 – The act repeals current law that requires the state to annually pay \$25,000 for an attorney for the St. Louis City Circuit Clerk.

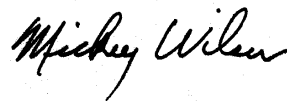
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General  
Department of Agriculture  
Office of the Governor  
Office of Administration  
    – Administrative Hearing Commission  
Coordinating Board for Higher Education  
Office of State Courts Administrator  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Transportation  
Department of Mental Health  
Department of Natural Resources  
Department of Corrections  
Department of Health and Senior Services  
Department of Labor and Industrial Relations  
Department of Revenue  
Department of Social Services  
Department of Public Safety  
    – Missouri State Highway Patrol  
    – Director's Office  
    – Missouri Gaming Commission  
    – Missouri Veterans Commission  
    – Missouri State Water Patrol

SOURCES OF INFORMATION (continued)

Missouri Consolidated Health Care Plan  
Department of Insurance  
Joint Committee on Legislative Research  
Joint Committee on Public Employee Retirement  
Department of Conservation  
Missouri House of Representatives  
Office of the Lieutenant Governor  
Missouri Public Service Commission  
State Auditor's Office  
Missouri Senate  
Office of the Secretary of State  
Office of the State Public Defender  
State Treasurer's Office  
State Tax Commission  
Boone County Sheriff's Department  
Kansas City Board of Elections



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May 3, 2005