

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1395-01  
Bill No.: SB 303  
Subject: Crime and Punishment; Criminal Procedure Boards, Commissions, Committees, Counsels; Department of Corrections  
Type: Original  
Date: April 8, 2005

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(Less than \$207,791)	(Less than \$209,631)	(Less than \$209,919)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Less than \$207,791)</b>	<b>(Less than \$209,631)</b>	<b>(Less than \$209,919)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

<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>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

\*Unknown costs to county prosecutors could exceed \$100,000 per fiscal year.

**FISCAL ANALYSIS**

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, Governor’s Office, Missouri House of Representatives, Missouri Senate, Southwest Missouri State University, and Truman State University** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General (AGO)** assumes the proposal creates costs that can be absorbed. The amount of those costs is somewhat indeterminate, as the Commission is required to review and analyze a statistical sample of all cases in which charges of first degree murder, second degree murder, or voluntary manslaughter were filed since 1977. AGO assumes the extent of the review would play a significant role in this fiscal analysis. AGO also notes that it could incur some costs in handling death penalty cases during the moratorium. AGO assumes these costs would be negligible.

ASSUMPTION (continued)

Officials from the **Office of Administration – Commissioner’s Office (COA)** assume the Commission on the Death Penalty is created within the Office of Administration. There is no compensation for members of the commission, but necessary expenses are to be reimbursed. The impact to the COA is the cost of the commission’s expenses. The tasks assigned to the commission appear to require significant staff support, which COA assumes the legislation intends to come from the Supreme Court and the state public universities. COA estimates the cost of the proposal to be \$7,791 in FY 06; \$9,631 in FY 07; and \$9,919 in FY 08.

Officials from the **Office of State Courts Administrator (CTS)** assume the Supreme Court, along with staff from the state public universities, is to provide assistance to the commission on the death penalty. CTS assumes there will be some, unquantifiable at this time, expenses for Supreme Court staffing. CTS would not expect the cost to exceed \$100,000.

Officials from the **Office of Prosecution Services** assume the costs to prosecutors to respond to information requests for data is unknown but could be substantial in some counties.

Officials from the **Department of Corrections (DOC)** assume this bill creates a commission to study the death penalty and imposes a moratorium on executions. The commission created in this bill to study the death penalty would be within the Office of Administration. Executions would not take place until at least January 1, 2009, due to the moratorium. It is unknown what decisions may be decided as a result of the study. Fiscal impact due to the outcome of the study and the recommendations of the commission would be addressed at that time through the regular budgetary/appropriation process.

Currently, DOC houses 54 capital punishment (CP) offenders. Capital punishment offenders who may have previously been put to death during the moratorium time period would now remain incarcerated within DOC. This cost, in turn, would be offset by the execution cost. The current estimate for an execution is a one-time cost of \$15,745. There were 2 executions in CY03 and none took place in CY04. There has been one CY05 execution as of the date of this writing. On average, a CP offender is incarcerated 10 years prior to execution. DOC received 3 new CP offenders in FY04.

If additional persons are remaining in the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through incarceration (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 per inmate.)

ASSUMPTION (continued)

In summary, supervision by the DOC through incarceration would result in additional costs to the department. Eight (8) persons would have to remain incarcerated per each fiscal year to exceed \$100,000 annually. It is assumed the impact would be less than \$100,000 per year for the DOC.

**Officials from the Office of the State Public Defender, Central Missouri State University, Lincoln University, Southeast Missouri State University, and the University of Missouri did not respond to Oversight’s request for fiscal impact.**

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Office of Administration</u>			
Commission expenses	(\$7,791)	(\$9,631)	(\$9,919)
<u>Costs – Office of State Courts</u>			
Administrator			
Staffing assistance to commission	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs – Department of Corrections</u>			
Incarceration costs	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(Less than <u>\$207,791</u>)</b>	<b>(Less than <u>\$209,631</u>)</b>	<b>(Less than <u>\$209,919</u>)</b>

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
<b>POLITICAL SUBDIVISIONS</b>			
<u>Costs – County Prosecutors</u> Information requests*	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS*</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

\*Unknown costs to county prosecutors could exceed \$100,000 per fiscal year.

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation would create a ten-member commission within the Office of Administration to study all aspects of the death penalty as administered in Missouri. The proposal would require the commission to hold public hearings and study all aspects of the death penalty as administered in Missouri, including all cases in which the death penalty was sought, and by using random sampling to review a statistical representation of cases in which charges of first degree murder, second degree murder, or voluntary manslaughter were filed after January 1, 1977. The review and analysis would examine data concerning the facts of the offenses, the county where charges were filed, the crime of which the person was convicted, the sentence, personal information about the convicted person, evidence of mental retardation, prior criminal history of the defendant, information about the legal defense team, results of appellate review and post-conviction review, and costs for implementing the sentence.

In considering the experience and training of attorneys, the commission would consider the experience and training levels required by the Missouri Supreme Court, other courts and legislatures, and recommendations of national associations.

DESCRIPTION (continued)

Findings and recommendations of the commission would be reported to the Governor, the Missouri Supreme Court and the General Assembly by January 1, 2009. The commission would recommend any proposed modifications to Missouri laws necessary to ensure adequacy of trial and appellate legal counsel, accuracy of findings of guilt of the accused, elimination of race disparity in charging and sentencing, fair court procedures and fair and consistent charging and sentence recommendations made by local prosecutors around the state.

The proposal would prohibit executions during the period of review, which period would be from August 28, 2005 to January 1, 2009.

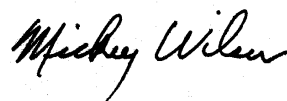
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General  
Office of the Governor  
Office of Administration  
    – Administrative Hearing Commission  
    – Commissioner's Office  
Office of State Courts Administrator  
Missouri House of Representatives  
Office of Prosecution Services  
Missouri Senate  
Southwest Missouri State University  
Truman State University

NOT RESPONDING

**Office of the State Public Defender, Central Missouri State University, Lincoln University, Southeast Missouri State University, University of Missouri**



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Mickey Wilson, CPA  
Director  
April 8, 2005

BLG:LR:OD (12/02)