

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1739-01
Bill No.: SB 425
Subject: Crimes and Punishment; Consumer Protection; Banks and Financial Institutions
Type: Original
Date: March 28, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	\$0	(\$148,579 to Unknown)	(\$306,073 to Unknown)
Total Estimated Net Effect on General Revenue Fund	\$0	(\$148,579 to Unknown)	(\$306,073 to Unknown)

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

*Offsetting revenues and costs of more than \$700,000 per fiscal year in the Missouri Office of Prosecution Services Fund.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government**	\$0	\$0	\$0

**Offsetting revenues and costs of more than \$100,000 to county Prosecuting Attorneys.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Attorney General, Department of Economic Development,** and the **Department of Public Safety – Missouri State Highway Patrol** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would increase the penalty for writing a bad check, and increase the costs assessed by the prosecutor. Since all moneys are paid to the prosecutors, CTS would not anticipate a fiscal impact on the judiciary.

Officials from the **Office of Prosecution Services** defer to the Greene County Prosecutor to estimate the fiscal impact for prosecutors.

ASSUMPTION (continued)

Officials from the **Greene County Prosecutor's Office** assume they would potentially see an increase of \$113,034 in 2006 over the \$134,371 they earned in fees in 2004, making the fees received in 2006 total \$247,405. Officials assume the actual increase would be less than this maximum, as they anticipate bad checks submitted to prosecuting attorney offices to decline in the next few years due to the new federal banking rules and the advent of electronic devices which allow businesses to automatically transfer money. The increase will vary by county.

On behalf of the Office of Prosecution Services, the Greene County Prosecutor estimates a total of \$875,000 yearly, or an increase of \$700,000. This assumes collections will stay at their current rate.

Oversight assumes the additional administrative handling costs collected by prosecutors statewide would exceed \$100,000 per year. In addition, Oversight assumes the costs collected by prosecutors for deposit into the Missouri Office of Prosecution Services Fund would exceed \$700,000 per year.

Officials from the **Office of the State Public Defender (SPD)** assume existing staff could provide representation for those few cases arising where indigent persons were charged for those few cases arising from the modification of provisions relating to passing bad checks. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

Officials from the **Department of Corrections (DOC)** assume this bill modifies provisions relating to passing bad checks. Penalty provisions are enhanced from a class D to a class C felony in specified instances.

DOC had 39 offenders sentenced to prison in FY04 on class D felonies for bad check writing. They spent an average time of 10.8 months in prison. Class C felons (for a comparable type of crime) would spend an average time of 17 months. 39 offenders who would now spend 6.2 months longer in prison calculates to an additional 20 offenders per year with the majority of the effect felt in the second year out.

Less people are originally given a probation sentence for a class C felony than for a class D; the likelihood increases to receive prison time instead. This aspect of the bill accounts for an unknown fiscal impact.

ASSUMPTION (continued)

DOC estimates the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- \$38.37 (FY04 cost) inmate per capita costs with an inflation rate of 3% per each subsequent year.
- \$3.15 (FY03 cost) average daily probation costs with an inflation rate of 3% per each subsequent year.

The following charts detail the estimated fiscal impact for the scope of the fiscal note (FYs 2006, 2007, and 2008), the estimated ten-year fiscal impact, and the assumptions used in determining these costs:

Bad Check Felony Assumptions			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	38.37	365	14,005
Construction (C4 or C5 \$55,000)			0
Emergency Housing	0.00	365	0
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

ASSUMPTION (continued)

	End FY Population	Average Population	Emer Hsng Expense	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2005	0	(current year which will have no costs incurred)				
FY 2006	0	0	0	\$0	0	\$0
FY 2007	20	10	0	\$140,050	0	\$148,579
FY 2008	20	20	0	\$280,100	0	\$306,073
FY 2009	20	20	0	\$280,100	0	\$315,255
FY 2010	20	20	0	\$280,100	0	\$324,713
FY 2011	20	20	0	\$280,100	0	\$334,454
FY 2012	20	20	0	\$280,100	0	\$344,488
FY 2013	20	20	0	\$280,100	0	\$354,822
FY 2014	20	20	0	\$280,100	0	\$365,467
FY 2015	20	20	0	\$280,100	0	\$376,431
Total Ten-Year Fiscal Impact:						\$2,870,282

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 operational cost either through incarceration (FY04 average of \$38.37 per inmate, per day or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, DOC estimates that potential costs will be in excess of the indicated measurable dollar amount per year.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	<u>\$0</u>	(\$148,579 to <u>Unknown</u>)	(\$306,073 to <u>Unknown</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>(\$148,579 to Unknown)</u>	<u>(\$306,073 to Unknown)</u>
 MISSOURI OFFICE OF PROSECUTION SERVICES FUND			
<u>Revenues</u> – Office of Prosecution Services			
From fees collected	More than \$583,333	More than \$700,000	More than \$700,000
 <u>Costs</u> – Office of Prosecution Services			
Assisting county prosecuting attorneys	(More than <u>\$583,333</u>)	(More than <u>\$700,000</u>)	(More than <u>\$700,000</u>)
ESTIMATED NET EFFECT ON MISSOURI OFFICE OF PROSECUTION SERVICES FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – County prosecuting attorneys			
Administrative handling costs	More than \$100,000	More than \$100,000	More than \$100,000
<u>Costs</u> – County prosecuting attorneys			
	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<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.

DESCRIPTION

The proposed legislation would relate to passing bad checks.

Currently, a person is guilty of passing a bad check if he or she makes or issues a check knowing that it will not be paid by the drawee or that there is no such drawee; or if he or she does so knowing that there are insufficient funds, no account, or no drawee and does not pay the check within 10 days after receiving notice.

Under this proposal, a person would also be guilty of passing a bad check with any other form of presentment involving the transmission of account information, not just a check.

Under this proposal, passing a bad check would be a class A misdemeanor unless certain circumstances exist, including when the issuer has no account with the drawee or if there was no such drawee at the time the check was issued. In such cases, passing bad checks would be a class C felony. Currently, a person is guilty of a class D felony under such circumstances.

DESCRIPTION (continued)

A prosecuting attorney who takes an action under this section would collect an administrative handling cost from the issuer in an amount of \$25 for checks of less than \$100, \$50 for checks between \$100 and \$250, and \$50 plus an additional 10% fee of the face amount for checks of \$250 or more, with a maximum fee being \$75. Currently, the amount of the administrative handling cost varies depending on the amount of the check, however, the scale differs from the one in this proposal.

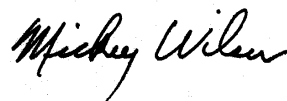
In addition to the administrative handling cost, a prosecuting attorney would collect \$5 per check for deposit into the Missouri Office of Prosecution Services Fund. Under this proposal, the money could be used for lawful expenses incurred by the attorney in operation of his or her office. This is in addition to the current allowable uses which include, but are not limited to, office supplies, postage, witness preparation, and additional staff. Currently, \$1 is collected for the fund.

The proposal would remove the provision which states that in all cases where a prosecutor receives notice of a violation with respect to a payroll check or order, if he or she finds a violation, shall file an information or seek indictment within 60 days.

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 State Courts Administrator
Department of Economic Development
Department of Corrections
Department of Public Safety
– Missouri State Highway Patrol
Office of Prosecution Services
Office of the State Public Defender
Greene County Prosecutor



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