

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3283-03
Bill No.: SB 885
Subject: Bonds - Bail; Insurance Dept.
Type: Original
Date: February 13, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Public Safety (DPS) - Director's Office, DPS - Missouri State Highway Patrol, Department of Insurance, and Department of Revenue** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate the proposal will not significantly alter its caseload. However, if other similar bills also pass, there are more cases or more complex cases, there could be a fiscal impact.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitment depends on the utilization by prosecutors and the actual sentences imposed by the court.

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 through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender per year).

ASSUMPTION (continued)

Supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Prosecution Services (OPS)** and **Office of State Public Defender (SPD)** did not respond to our request for a statement of fiscal impact.

Based on the Office of State Courts Administrator's and Department of Corrections's responses, **Oversight** assumes the OPS and SPD would not incur a significant fiscal impact as a result of this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small business bail bond agents/organizations may incur a minimal administrative fiscal impact as a result of this proposal.

DESCRIPTION

This proposal modifies laws relating to bail bond agents.

SECTION 374.707 - Under this proposal, the Department of Insurance is required to notify general bail bond agents who are listed as having a forfeited bond. Such attempt to notify general bail bond agents by the department must be made by fax or e-mail within 48 hours of the forfeiture being listed with the department.

DESCRIPTION (continued)

SECTION 374.710 - The Department shall include the photograph provided by the person during the application process on agent license. This section requires a person to provide the name, address, and telephone number of each employer for which he or she works upon receiving a bail bond agent or general bail bond agent license. The information must be updated with new employers before the person writes bond for them.

SECTION 374.715 - This section requires an applicant to provide a photo identification, a standardized fingerprint card with the person's fingerprints processed by a law enforcement agency, and the results of a criminal history background check processed by the Highway Patrol. Any applicant who provides false information shall be guilty of a Class A misdemeanor.

SECTION 374.755 - In addition to the current reasons for which the Department may file a complaint with the Administrative Hearing Commission against the holder of a license, it may also do so for: 1) the final adjudication or plea of guilty to a dangerous felony regardless of when it occurred; or 2) having filed bankruptcy within the past seven years as an owner or officer of a company that was created for the purpose of engaging in the bail bond business.

Any bail bond agent or general bail bond agent who has his or her license revoked by the Director of the Department must return such license to the Department. Failing to do so when required is a Class A misdemeanor.

To the extent that Rule 33.17 of the Missouri Rules of Civil Procedure contradicts any provision of this section, the provisions of this section shall prevail.

SECTION 374.759 - If the court orders any bond for a defendant, the bail bond agent may issue said amount for the bond with his or her surety. Such surety shall be accepted in the same manner as cash for a cash bond if the amount exceeds \$1,000.

SECTION 374.761 - A bail bond agent shall be qualified to write bail in a circuit court if the general bail bond who employs the agent is licensed and qualified to write bail in the court and the bail bond agent is also licensed and is in good standing with the Department of Insurance.

Any general bail bond agent, or any bail bond agent employed by such person, who is licensed shall qualify to write bail in any circuit court. To the extent that Rule 33.18 (e) of the Missouri Rules of Civil Procedure contradicts any provision of this section, the provisions of this section shall prevail.

DESCRIPTION (continued)

SECTION 374.773 - This section requires any licensed bail bond or general bail bond agent who is arrested for a felony to notify the Department of Insurance within 10 days of his or her arrest.

SECTION 544.640 - The court may forfeit a bond or order an execution hearing between 60 and 180 days after a person fails to appear for trial, judgment, or on another occasion when his or her presence is needed. Notice of the execution hearing shall be served within 10 days of such failure to appear. If the bail bond agent provides proof that the defendant is incarcerated or that it is physically impossible for the defendant, bail bond agent, or surety to satisfy conditions of the bond, the bail bond agent shall be released from liability and all money and property deposited with the court shall be returned within 10 days. The court must agree that there are physically impossible conditions so that the defendant cannot appear under such circumstances.

On application of the surety filed within 180 days of the payment of final judgment, the court shall order remission of 100% of the bond amount to the surety if: 1) the surety surrenders the principal to an authorized officer, 2) such surrender has been denied by an authorized officer, or 3) the surety locates the defendant in custody in another jurisdiction. If it is proven to the court that such surrender has been made, denied, or that the defendant is in custody in another jurisdiction, the court shall direct that the judgment be marked satisfied and that the writ of execution be canceled.

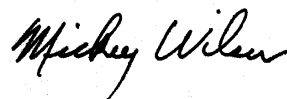
Under this proposal, a defendant shall be surrendered without the return of the premium for the bond if the indemnitor attests in writing the desire to be released or if the agent discovers the defendant is guilty of certain activities, including but not limited to, failing to appear, changing addresses without notification, or leaving the jurisdiction. Upon forfeiture of the bond, the court may order that the defendant's driver's license be suspended until the defendant has satisfied the forfeiture.

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 Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Corrections
Department of Revenue
Department of Public Safety -
 Director's Office
 Missouri State Highway Patrol
Department of Insurance

NOT RESPONDING: Office of Prosecution Services and Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
February 13, 2006