

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0943-02  
Bill No.: SB 258  
Subject: Prisons and Jails; Department of Corrections; Crimes and Punishment  
Type: Original  
Date: March 12, 2007

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Bill Summary: The proposal requires the selection of an execution team and creates legal protection for the team members.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
State Legal Expense	\$0	\$0	\$0
<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 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</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 FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Office of Administration – Division of Personnel, – Administrative Hearing Commission, Department of Insurance, Financial Institutions, and Professional Registration, Department of Public Safety – Missouri State Highway Patrol, and the – Director’s Office** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors or the Office of Prosecution Services.

Officials from the **Office of Administration – General Services Division (COA)** assume the proposal has the potential for costs to the state legal expense fund that cannot be determined at this time. There would be exposure to the fund should an action be filed in federal court by those in opposition to the execution. In state court, the execution team, if deemed state employees for purposes of the fund, would also be provided the personal liability protection as stated in 105.711.5, RSMo.

The state self-assumes its own liability protection under the state legal expense fund, Section 105.711, RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General. The proposed legislation has the potential for costs to the state. COA has reflected the unknown fiscal impact to the general revenue fund, as general revenue funds the state legal expense fund.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume the proposal creates the crime of knowingly disclosing the identity of a member of an execution team, a class A misdemeanor.

Currently, the DOC cannot predict the number of new commitments which may result from the enhancement of the offense(s) outlined in this proposal. An increase in commitments 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 either through incarceration (FY06 average of \$39.43 per inmate per day, or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY06 average of \$2.52 per offender per day, or an annual cost of \$920 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional costs, but DOC assumes the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of the State Public Defender (SPD)** assume this new crime will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
<b>GENERAL REVENUE FUND</b>			
<u>Transfers out</u> – Office of Administration To the state legal expense fund	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<b>STATE LEGAL EXPENSE FUND</b>			
<u>Transfers in</u> – Office of Administration From general revenue fund	Unknown	Unknown	Unknown
<u>Costs</u> – Office of Administration Increased liability protection	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON STATE LEGAL EXPENSE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

### FISCAL DESCRIPTION

The proposed legislation requires the Director of the Department of Corrections to select an execution team. All members of the execution team are considered employees of the state for the purpose of the state legal expense fund. Knowingly disclosing the identity of a member of an execution team is a class A misdemeanor.

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 Administration

– Administrative Hearing Commission

– General Services Division

– Division of Personnel

Office of State Courts Administrator

Department of Insurance, Financial Institutions, and Professional Registration

Department of Corrections

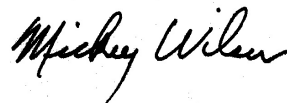
Department of Public Safety

– Director's Office

– Missouri State Highway Patrol

Office of Prosecution Services

Office of the State Public Defender



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Director  
March 12, 2007