

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1952-04
Bill No.: HCS for SB 516
Subject: Civil Procedures; Court; Judges
Type: # Corrected
Date: May 8, 2007
To correct estimated net effect on General Revenue Fund for FY 2008.

Bill Summary: The proposal modifies various provisions relating to judicial procedures and personnel.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue #	Up to \$668,613 to Up to \$768,613	(More than \$378,389 to More than \$478,398)	(More than \$841,058 to More than \$941,058)
Total Estimated Net Effect on General Revenue Fund #	Up to \$668,613 to Up to \$768,613	(More than \$378,389 to More than \$478,398)	(More than \$841,058 to More than \$941,058)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
State School Moneys	\$0	\$0	\$0
State Legal Expense	\$0	\$0	\$0
Technology	\$112,500	\$77,500	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$112,500	\$77,500	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 26 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	6	6	6
Total Estimated Net Effect on FTE	6	6	6

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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Coordinating Board for Higher Education, Office of Administration – Division of Budget and Planning, – Administrative Hearing Commission, Department of Insurance, Financial Institutions, and Professional Registration, Department of Natural Resources, Department of Health and Senior Services, Department of Revenue, Office of the Governor, Department of Public Safety – Director’s Office, Department of Conservation, State Auditor’s Office, Missouri Senate, State Treasurer’s Office,** and the **City of Centralia** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Corrections (DOC)** assume this proposed legislation modifies various crime provisions. The penalty provision component of the bill resulting in potential fiscal impact for the DOC, is for both enhancements of existing crimes and creations of new crimes.

Currently, the DOC cannot predict the number of new commitments which may result from the creation 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.

ASSUMPTION (continued)

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 incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of \$100,000 per year.

Officials from the **Office of Prosecution Services (OPS)** assume this proposed legislation includes provisions for new criminal acts and modifications to existing criminal acts. In addition there are other provisions that may effect and therefore create new obligations for prosecuting attorneys. Any increase in the number of cases referred for criminal prosecution and any new statutory obligations for prosecutors will have an additional fiscal impact on County Prosecutors. However, officials from the Office of Prosecution Services are not aware of any estimates of the number of additional criminal cases that would be referred to County Prosecutors for charges because of this proposed legislation or the impact that additional obligations would have on prosecutors. Additionally, the Office of Prosecution Services is not otherwise able to establish a workable estimate of the number of additional criminal cases that would be referred to County Prosecutors for charges or how many additional hours the proposed statutory obligations would require of prosecutors. It is therefore, not possible to determine the extent to which this proposal would have a direct fiscal impact on county prosecutors or the Office of Prosecution Services.

Oversight assumes the Office of Prosecution Services and County Prosecutors could absorb any direct fiscal impact resulting from the proposal within existing resources. Oversight assumes any significant increase in the workload would be reflected in future budget requests.

Officials from the **Office of the Secretary of State (SOS) – Administrative Rules Division** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

ASSUMPTION (continued)

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.

State Legal Expense Fund – §105.711

Officials from the **Office of the Attorney General (AGO)** assume there will be some additional costs associated with defending the Legal Expense Fund because this proposal expands both the types of health care providers that are eligible for coverage and also expands the acts they are covered for to “services” rather than simply “treatment.”

While AGO cannot predict the impact of this expansion of coverage under the Second Injury Fund, AGO assumes that the impact on the AGO will be under \$100,000 and that the impact on the Fund is unknown.

Oversight assumes Office of the Attorney General (AGO) could absorb any costs within existing resources. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriation process.

Officials from the **Office of Administration – General Services Division (COA)** assumed offering legal expense fund protection to specialty care providers without restriction on the type of services covered could increase the exposure to the legal expense fund significantly. The legislation also adds any social welfare board created under section 205.770, RSMO, and any medical care providers who are referred to provide specialty care without compensation. In this section no limits have been established, thus leaving the legal expense fund exposed to unlimited risk of loss.

ASSUMPTION (continued)

COA states 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.

COA assumes the proposal has the potential for significant costs to the state legal expense fund that cannot be determined at this time. COA assumes these costs could exceed \$100,000 per year. COA has reflected the costs affecting the general revenue fund, as general revenue funds the state legal expense fund.

Increased Charge to Copy Health Care Records – §191.227

Officials from the **Department of Mental Health (DHM)** project they might experience a \$2,000 increase in copying costs over the last year, but these increased costs can be absorbed. DMH assumes no fiscal impact.

Officials from the **Department of Social Services (DOS)** assume they would incur increased costs for copies of health care records. DOS assumes this cost to be Unknown, but less than \$100,000 per fiscal year.

Traffic Violation Revenues – §302.341

Officials from the **Office of State Courts Administrator (CTS)** assume this section would increase the amount of excess revenues generated by fines for moving traffic violations that municipalities must send to the Department of Revenue. Currently, it is any amount in excess of 45% of its total annual general operating budget; the legislation would change that to in excess of 35%. CTS has no way of determining the additional amount of money that would go to Department of Revenue.

Officials of the **Office of State Auditor** stated that this bill would annually require the SAO to audit any city, town or village that fails to send excess revenues from traffic violations to the Department of Revenue in a timely fashion.

ASSUMPTION (continued)

Officials stated the cost of this requirement is unknown as the number of municipalities that will need to be audited as a result of this provision is also unknown. There are approximately 861 cities, towns and villages in Missouri, so the fiscal impact may be significant, but is unquantifiable. In addition, it is anticipated that additional audits that are required as a result of this bill will require additional FTE at the SAO, which may be significant.

Oversight assumes this proposal would only affect those cities and villages that receives more than 35% of their operating revenue from fines and court costs for traffic violations occurring on state highways, that do not pay revenues from violations in excess of 35% to the DOR in a timely fashion.

Oversight assumes this would not affect a very large number of cities. Oversight assumes if the number of cities that would require annual audits were to reach an unusually large number, the State Auditor could request additional FTE, and other resources through the annual appropriation process.

Oversight will show a loss of revenue to certain cities, and an increase of income to certain school districts via the Department of Revenue. Amounts of excess revenues are indeterminable and will be shown as unknown.

Business Organizations – §§347.137 & 347.179, §§351.015 – 351.690, §§355.016 – 355.857

Officials from the **Office of the Secretary of State (SOS) – Business Services Division** assume the proposal will allow the SOS to charge an additional fee for expedited filings; it will allow corporations to change the due date of their corporate registration report; it will allow corporations to elect to file their corporate registration report biennially; and it will reduce the fee for LLC's organizing online.

SOS assumes they will incur fiscal impact as follows:

Expedited fees: Estimated 2 expedited requests per week at \$200 per filing.

Reduction of online filing fees for LLCs: It is assumed that 50% of the 30,000 LLCs formed each year will file online (15,000 x \$55)

Option to change the due date of the corporate registration report: It is assumed that 30% of the 124,000 general business corporations will opt to change their due date in 2008; of those, 75% will change in FY 08 and 25% will change in FY 09.

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ASSUMPTION (continued)

Option for a biennial corporate registration report: It is assumed that 50% of the 124,000 general business and 50% of the non-profit corporations will elect to file biennially. Corporations formed in odd numbered years can opt in an odd numbered filing year; corporations formed in an even numbered year can opt in an even numbered filing year. It is assumed that 40% will opt to file biennially, with 70% of the general business and 55% of the non-profit filing online; the remainder will file paper reports. The change will occur over two fiscal years, with 75% of the general business changing in FY 08 and 25% changing in FY 09. For non-profits, the first year change will occur in FY 09.

Expenses for FY 08 are for one time contract programming with the KB system vendor. FY 09 and FY 10 Cost avoidance is in reduced postage and printing because of biennial filing.

SOS assumes the fiscal impact on the General Revenue Fund will be \$265,300 in FY 08, (\$347,374) in FY 09, and (\$778,735) in FY 10. SOS assumes the fiscal impact on the Technology Fund will be \$112,500 in FY 08 and \$77,500 in FY 09.

Trademark Registrations – §§417.011 – 417.049

Officials from the Office of the Secretary of State – Business Services Division assume a 10% increase in filings the first year as a result of being able to file a trademark or service mark based on the intent to use rather than actual use before being able to file. The increase in volume will be absorbed by existing staff. SOS projects an increase to general revenue of \$15,900 in FY 08; \$16,575 in FY 09; and \$17,275 in FY 10.

Uniform Child Custody Jurisdiction and Enforcement Act– §§452.700 – 452.930

Officials from the **Department of Social Services – Division of Legal Services (DLS)** assume DLS will be able to handle compliance with the proposal with existing resources. The proposal will require minor modification of some legal forms used by DLS, but these modifications can be handled with existing resources. DLS would defer to the Children's Division for an analysis of the fiscal impact of the legislation.

Officials from the **Department of Social Services – Children's Division (CD)** assume this proposal could result in CD staff having to travel out of Missouri. The extent of the travel due to this change in legislation is unknown. Therefore, CD is submitting zero fiscal impact.

ASSUMPTION (continued)

Orders of Protection – §455.038

Officials from the **Office of State Courts Administrator (CTS)** assume this section requires circuit clerks to provide notification information to individuals petitioning for ex parte orders of protection. The meaning of the legislation is unclear in regard to the “information” to be provided to the petitioner. CTS assumes the “information” will be provided to the courts for distribution. If this is the case, there will be no cost to the courts. However, if the assumption is incorrect, there will be printing costs for the counties.

Oversight assumes the information will be provided to the courts for distribution. Therefore, there will be no cost to the courts.

Compensation of Court–Appointed Marshals – §477.005

Officials from the **Office of State Courts Administrator (CTS)** assume this section would require that marshals appointed for the appellate courts be compensated in the same amount as the highest salary set for marshals for circuit courts. Currently, the highest paid marshal (of three) is the 19th circuit marshal, who is paid \$50,784 per year.

The FY 08 budget request indicates the following appellate court salaries for their marshal:

Supreme Court:	\$37,278
Western District:	\$37,902
Eastern District:	\$36,479
Southern District (.6 FTE):	\$20,330

If all four marshals’ salaries were raised to the 19th circuit rate, the total cost would be approximately \$50,833, plus fringes.

Oversight assumes the counties would incur the cost of expenses and equipment for the marshals.

ASSUMPTION (continued)

Circuit Court Judges – §§478.463 & 478.513

Officials from the **Office of State Courts Administrator (CTS)** assume for each circuit court judge, the costs are as follows:

Circuit Court Judge: \$113,568 per year, plus fringe benefits
Court Reporter: \$51,854 per year, plus fringe benefits

The total annual cost for these new positions would be \$330,844 plus fringe benefits, and 4 FTE. The judge salary reflects implementation of the recommendations from the Missouri Citizens' Commission on Compensation for Elected Officials.

There is no appropriation in the judiciary's budget to fund these new positions. Should this legislation pass, CTS would have to request a supplemental appropriation for FY 08 in the amount of \$281,398.

Oversight has adjusted the Office of State Courts Administrator's fiscal estimate to include equipment and expenses for the Circuit Court Judge and Court Reporter.

Drug Court Commissioner – §478.466

Officials from the **Office of State Courts Administrator (CTS)** assume, beginning July 1, 2008, the proposed legislation would allow the 16th judicial circuit to appoint a drug court commissioner.

The compensation for a drug court commissioner is the same as for an associate circuit judge, \$103,088 per year, plus fringes. The commissioner salary reflects implementation of the recommendations from the Missouri Citizens' Commission on Compensation for Elected Officials, but does not include the 3% general statewide salary adjustment recommended by the Governor.

Oversight assumes the county would incur the cost of expenses and equipment for the drug court commissioner.

ASSUMPTION (continued)

Civil Code Enforcement Board – §479.011

Officials from the City of Kansas City (CKC) assume no direct savings will be experienced by the provisions in this section. There may be some savings by the operation of a code enforcement board because of the reduced work load placed on the Municipal Court. The true savings will arise from the relative improvement in speed in dealing with housing code violations and nuisances, thus more quickly protecting those living in the neighborhoods surrounding such properties.

Oversight assumes any local savings will be minimal, and has reflected no fiscal impact.

Notaries Public – §§486.215 – 486.385

Officials from the **Office of the Secretary of State – Business Services Division** assume the existing notary processing system will need to be modified by the contract vendor to be able to process attorneys applying for a non-expiring notary public. It is not known at this time how many attorneys will avail themselves of the non-expiring commission or how many current notaries public are attorneys. Existing staff will process applications from attorneys.

Family Court Commissioner – §487.020

Officials from the Office of State Courts Administrator (CTS) assume this section would allow the 31st judicial circuit to appoint a family court commissioner.

The compensation for a family court commissioner is the same as for an associate circuit judge, \$103,088 per year, plus fringes. The commissioner salary reflects implementation of the recommendations from the Missouri Citizens' Commission on Compensation for Elected Officials, but does not include the 3% general statewide salary adjustment recommended by the Governor.

The legislation does not include a beginning date for the new position. For estimation purposes, CTS assumes this position will begin on August 28, 2007. There is no appropriation in the judiciary's budget to fund the new position. Should this legislation pass, the Office of State Courts Administrator would have to request a supplemental appropriation for FY 08 in the amount of \$96,510.

Oversight assumes the county would incur the cost of expenses and equipment for the family court commissioner.

ASSUMPTION (continued)

Court Reporter Fees – §488.2253

Officials from the **Office of State Courts Administrator (CTS)** assume this section would increase the court costs paid by litigants for court reporter services.

The statutory court cost charged litigants in cases where the record is preserved using a court reporter would increase by \$10, from \$15 to \$25. This is income to general revenue. Some of these costs will be borne by the state through the criminal costs bills paid by the Office of Administration. There were about 184,000 cases in FY 2006 to which the costs could apply.

If fully collected, these costs would generate upwards of \$1,840,000 in new revenue. Indigent cases, acquittals, dismissals, etc. will reduce receipts considerably, but it would be safe to say the revenue would increase anywhere from \$1,200,000 to \$1,300,000.

The legislation also gives court reporters a COLA for transcripts based on the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. CTS is unable to predict what that increase or decrease might be.

The proposal could increase Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Revenues</u> – Office of State Courts Administrator			
Increased court costs for court reporters (§488.2253)	\$1,200,000 to \$1,300,000	\$1,200,000 to \$1,300,000	\$1,200,000 to \$1,300,000
<u>Revenues</u> – Office of the Secretary of State			
Corporations fees (Chapter 351)	\$265,300	(\$347,374)	(\$778,735)
Trademark registrations (Chapter 417)	<u>\$15,900</u>	<u>\$16,575</u>	<u>\$17,275</u>
<u>Total Revenues</u> – SOS	\$281,200	(\$330,799)	(\$761,460)
<u>Savings</u> – Reduced appropriation to the State School Moneys Fund – reduction in next year from increase in fine revenue to local school districts (various sections)			
	\$0	Unknown	Unknown
<u>Transfers In</u> – To Department of Revenue Excess revenues from certain cities (§302.341)			
	Unknown	Unknown	Unknown
<u>Costs</u> – Department of Corrections (various sections)			
Incarceration/probation costs	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Costs</u> – Department of Social Services Copies of health care records (§191.227)			
	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

STATE SCHOOL MONEYS FUND

<u>Savings</u> – Reduced distributions to school districts as a result of the increased fine revenue	\$0	Unknown	Unknown
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<u>Losses</u> – Reduced appropriations from General Revenue Fund	\$0	(Unknown)	(Unknown)
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ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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STATE LEGAL EXPENSE FUND

<u>Transfers in</u> – from General Revenue Fund (§105.711)	More than \$100,000	More than \$100,000	More than \$100,000
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<u>Costs</u> – Office of Administration Increased liability (§105.711)	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
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ESTIMATED NET EFFECT ON STATE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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TECHNOLOGY FUND

<u>Revenues</u> – Office of the Secretary of State Corporations fees (Chapter 351)	<u>\$112,500</u>	<u>\$77,500</u>	<u>\$0</u>
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ESTIMATED NET EFFECT ON TECHNOLOGY FUND	<u>\$112,500</u>	<u>\$77,500</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
POLITICAL SUBDIVISIONS			
<u>Transfers in</u> – To Certain School Districts			
From Department of Revenue excess fines (§302.341)	Unknown	Unknown	Unknown
<u>Revenues</u> – Local School Districts			
Income from increase in fines (various sections)	Unknown	Unknown	Unknown
<u>Costs</u> – Counties			
County expenses for circuit court judges, court reporters, drug court commissioner, and family court commissioner	(Unknown)	(Unknown)	(Unknown)
<u>Losses</u> – Local School Districts			
Reduced distributions from State School Moneys Fund (various sections)	\$0	(Unknown)	(Unknown)
<u>Losses</u> – Certain Cities			
From change in excess fine laws (§302.341)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>

FISCAL IMPACT - Small Business

The proposed legislation could fiscally impact small businesses. A small business organizing as a limited liability company and filing online will save \$55 per business. There will be a fee of \$20 for each corporation that opts to change the month its corporate registration report is due; it is assumed that this cost will be more than offset in cost savings/avoidance by completing this requirement at the same time other business and tax filings are completed. A corporation electing to file its corporate registration report biennially rather than annually will presumably, over a two year period, expend one half the cost of preparing the report. A typical business will spend approximately 15 minutes each year preparing and filing its registration report; biennial filing would save an estimated 8,000 hours by business filers every year.

Small businesses could also be fiscally impacted by the trademark registration section of the proposal. While it will cost each filer of a trademark or service mark \$25 more to file, it will save time and expense to the filer by making the filing process more consistent with the federal trademark filing requirements.

FISCAL DESCRIPTION

Certified Mail – §1.020

The proposal defines “certified mail” as it relates to the laws of this state to include any package or letter carried by a delivery service that allows a sender or recipient to electronically track its location.

Real Property Transfers to Counties – §49.292

This proposal prohibits water and sewer line easements from being considered as transfers of title of real property to counties; therefore, these easements will not need to be proved or acknowledged to be valid if authorized for recording by the county commission.

State Legal Expense Fund – §105.711

The proposal allows physicians and dentists who provide medical care without compensation and who were referred by his or her city or county health department, city health department operating under a city charter, combined city-county health department, a nonprofit community health center, or any social welfare board established under Section 205.770, RSMo, to be included in the list for whom the State Legal Expense Fund is available. The fund is not available to a physician who performs an abortion procedure.

FISCAL DESCRIPTION (continued)

Any claim or judgment arising from these provisions is limited to a maximum of \$1 million based upon the same act or acts in a single cause of action and \$1 million for any one claimant. Liability or malpractice insurance will not be considered available to pay any portion of the judgment when the fund is liable.

Possession of Controlled Substances – §195.202

The proposal enhances the penalty for possession of a controlled substance to a class B felony for any violation by an individual while in the presence of a person under 17 years old. The substitute adds possession of amphetamine or methamphetamine to the list of violations for child endangerment.

Traffic Violation Revenues – §302.341

Currently, if a city, town, or village receives more than 45% of its total annual revenue from fines for traffic violations, all revenue from these violations in excess of 45% must be sent to the Department of Revenue. This proposal reduces the amount to 35% of the annual general operating revenue, but includes court costs for traffic violations in the amount. Failure to send the excess revenue to the department in a timely manner as determined by the department director results in the city, town, or village being subject to an annual audit by the State Auditor. The provisions of Section 302.341.2 become effective January 1, 2010, for any city, town or village located in Jackson County.

Business Organizations – §§347.137 & 347.179, §§351.015 – 351.690, §§355.016 – 355.857

The proposal authorizes an additional method for the dissolution of a limited liability company (LLC) in the event there are no members and the LLC is not already dissolved and not required to be wound up. The substitute also changes the definition of “issuing public corporation” in the general provisions for business corporations in Section 351.015, RSMo, and defines “domestic corporation” as a corporation incorporated under Missouri laws in the merger and consolidation provisions in Section 351.459.

FISCAL DESCRIPTION (continued)

The proposal allows a corporation to change the month of its corporate registration report by designating the desired month and paying an additional \$20 fee. Beginning January 1, 2008, a corporation will also be allowed to file a corporate registration report on a biennial basis. Corporations incorporated in an even-numbered year may only file a report in an even-numbered year, and corporations incorporated in an odd-numbered year may only file a report in odd-numbered years. The fee for filing the biennial report will be \$80 if filed in a written format and \$30 if in an electronic format. Any corporation filing a biennial report must maintain the registration for two years, but may choose to file an annual registration in subsequent years. The Secretary of State is authorized to charge a \$45 fee for a corporate filing of the original articles of organization in an electronic format.

Corporate Name Reservations – §355.151

Currently, the Secretary of State reserves a corporate name for an applicant's exclusive use for a 60-day period. This proposal extends that holding period to a maximum of 180 days from the date of the first application and prohibits the name from being placed back in a reserve status.

Scrap Metal Sales – §407.300

The proposal requires purchasers or collector of scrap metal to keep a written or electronic register for each purchase or trade of scrap metal exceeding \$50 or 50 pounds. A separate record must be kept for each transaction involving copper, aluminum wire or cable. Every record must contain a copy of the driver's license or other state or federally-issued identification from whom the metal is purchased and the date, time, place, weight and full description of each purchase or trade. A person will be guilty of a class A misdemeanor for violating the registration provisions of scrap metal sales.

Advertising or Conducting Live Musical Performance Using False or Misleading Information – §407.309

This proposal prohibits any person from advertising or conducting a live musical performance in Missouri while using a false, deceptive, or misleading affiliation between the performing group and the original recording group.

FISCAL DESCRIPTION (continued)

The Attorney General or prosecuting attorney is authorized to bring an action for a temporary or permanent injunction against any person in violation. Any person found in violation will be liable to the state for a civil penalty of \$5,000 to \$15,000 per violation and may be required to pay restitution to the original recording artist in an amount equal to the money acquired due to the false, deceptive, or misleading affiliation between the performing group and the original recording group.

Deceptive Practices – §407.485

Donation receptacles operating for profit are required to display on the receptacle that the donations are not for charitable organizations and will be resold for profit. A violation of this provision will be considered an unfair business practice under Section 407.202. If any of the proceeds from resale are donated to a not-for-profit organization, the donation receptacle must display the percentage of proceeds donated and the name of the not-for-profit organization.

Trademark Registrations – §§417.011 – 417.049

The proposal requires the registration of a trademark to be filed with a signed statement that the registrant has a bona fide intention to use the mark in commerce or in connection with the goods or services listed in the application. The proposal allows a single application for the registration of the same trademark for goods or services in multiple classes.

Deceptive Use of Financial Institution's Name – §427.225

The proposal allows the Attorney General to bring a cause of action for unlawful merchandising practices when a financial institution's name is deceptively used.

Uniform Child Custody Jurisdiction and Enforcement Act – §§452.700 – 452.930

The proposal establishes the following order of priority to determine which state has proper jurisdiction to make an initial determination of child custody.

The proposal specifies the circumstances where the state would not keep jurisdiction over all matters concerning the child once a state court has made a custody determination.

FISCAL DESCRIPTION (continued)

Once a custody determination has been made, a court of another state does not have authority to modify the determination unless the state with jurisdiction determines that it does not have jurisdiction or any state court determines that the child, parents, or any acting parents do not reside in the state which currently has jurisdiction.

A state which does not otherwise have jurisdiction may enter a temporary emergency order if the child is in danger and needs immediate protection. After issuing the order, the state court should determine if there is an existing custody order from another state in effect. If there is an existing order, the emergency court must allow a reasonable time period for the parties to return to the state having jurisdiction and argue the issues to the court with jurisdiction. If there is no previous child custody order in existence, the emergency court's order will remain in effect until a determination is made in a court having home state jurisdiction over the child. If no determination is made and the emergency court's state becomes the home state of the child, the emergency order becomes a final determination of custody.

Orders of Protection – §455.038

The proposal requires the circuit clerk to notify by phone an individual who is petitioning for an ex parte order of protection when the order has been served or if no more attempts to serve are planned if the petitioner has opted to register a phone number with the victim notification system established in Section 650.310, RSMo. All attempts to serve orders of protection must be tracked by the agency responsible for serving the order.

Missouri Uniform Trust Code – §456.5-501

The proposal makes a technical correction to Section 456.5-501 of the Missouri Uniform Trust Code by changing an intersectional reference.

Compensation of Court–Appointed Marshals – §477.005

The proposal requires that marshals appointed for the courts of appeal be compensated at the same amount as the highest salary for marshals of circuit courts.

Annual Judicial Reports – §477.600

The proposal allows the required annual report of the Judicial Finance Commission to be combined with any other annual report prepared by the Missouri Supreme Court or the Office of State Courts Administrator if it is distributed to the required parties.

FISCAL DESCRIPTION (continued)

Circuit Court Judges – §§478.463 & 478.513

The proposal authorizes the addition of one circuit court judge in the 31st Judicial Circuit in Greene County beginning January 1, 2008.

The proposal also authorizes the addition of one circuit court judge in the 16th Judicial Circuit in Jackson County beginning January 1, 2008. The circuit judge will sit at the city of Independence.

Drug Court Commissioner – §478.466

The proposal authorizes the appointment of a drug court commissioner in the 16th Judicial Circuit in Jackson County beginning July 1, 2008. Compensation for the commissioner will be payable by the state without necessity for reimbursement.

Administrative Adjudication of Code Violations in Kansas City – §479.011

The proposal allows the City of Kansas City to establish an administrative system for adjudicating parking and other civil, nonmoving municipal code violations. Currently, only the City of St. Louis is allowed to establish a system.

Circuit Clerk of Greene County – §483.015

Currently, the circuit clerk for Greene County is elected. This proposal requires that he or she be appointed by a majority of the circuit and associate circuit judges of that circuit and may be removed for cause by a majority of judges. The circuit clerk in office on the effective date of the substitute will serve the remainder of his or her term as if appointed.

Unauthorized Practice of Law – §484.020

The proposal increases the penalty for the unauthorized practice of law from a misdemeanor to a class A misdemeanor.

Legal Services for Needy Persons – §484.280

The proposal allows public officials or employees, who are otherwise prohibited from practicing law during their tenure in office, to provide legal services to needy persons if the services are provided without compensation.

FISCAL DESCRIPTION (continued)

Notaries Public – §§486.215 – 486.385

The proposal allows an attorney to serve as a notary public until his or her commission is revoked. Currently, a notary public serves a four-year term and is required to renew his or her status at the end of that term. An attorney will be required to submit a one-time notary fee of \$75 and a \$10 fee to the Secretary of State's Technology Trust Fund. Notary status for an attorney will be revoked if the attorney's law license is suspended, revoked, or terminated. The Secretary of State is authorized to promulgate rules for the implementation of the bill.

Family Court Commissioner – §487.020

The proposal allows the 31st Judicial Circuit composed of Greene County to appoint one family court commissioner whose compensation will be paid by the state.

Court Reporter Fees – §488.2253

The proposal would increase the court costs paid by litigants for court reporter services from \$15 to \$25. Court reporters would receive an annual COLA adjustment.

Jury Service – §494.430

Currently, upon timely application to the court, health care providers are excused from jury service. This proposal removes this provision and allows the court at its discretion to excuse a health care provider if he or she makes timely application to the court and provides a written statement certifying that he or she is providing critical health care services to patients. The substitute disqualifies licensed attorneys from jury service.

Statute of Limitations – §516.140

The proposal makes the statute of limitations two years for injurious falsehood.

Service of Summons – §517.041

Currently, a court summons requires a defendant to appear before an associate circuit judge no less than 10 days nor more than 30 days from the date the summons was delivered. This substitute changes the 30-day requirement to 60 days.

FISCAL DESCRIPTION (continued)

Change of Name – §527.270

The proposal prevents any person convicted of a felony and confined in prison from changing his or her name until his or her sentence has been completed.

Landlord – Tenant Claims – §535.025

Currently, any landlord organized as a corporation that owns and manages rental property cannot bring an action to remove a tenant without being represented by an attorney. This proposal authorizes corporations or unincorporated associations to be represented in court by the president or vice-president of the entity for any rent and possession action.

Landlord – Tenant Liability – §535.040

The proposal exempts landlords from liability for any damage to personal property resulting from the enforcement of a judgment granting possession of the property. Landlords are given the right to dispose of the personal property in any manner they consider reasonable. The landlord must make a reasonable effort to notify a third party of any property left by the tenant that bears a conspicuous permanent label or marking identifying it as the property of the third party and give the third party five business days after the date of execution for recovery of the property.

Sexual Offenders – §566.150

The proposal makes it a class A misdemeanor for a first offense and a class D felony for a second or subsequent offense for certain sexual offenders to serve as an athletic coach, manager, or trainer for any sports team with children younger than 17 years of age.

Adult Abuse and Stalking – Section 1 & §455.010

Any court may order a court record closed that involves allegations of adult abuse or stalking if the petition is denied, dismissed, withdrawn by the petitioner, or denied after hearing. The substitute also changes the definition of adult to anyone 17 years old or over for the purposes of the adult abuse statutes.

Regulation of Attorney Advertising – Section 2

The proposal regulates the practice of television advertising by attorneys and establishes the conditions for false and misleading advertising practices.

FISCAL DESCRIPTION (continued)

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

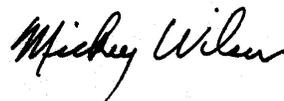
Office of the Attorney General
Coordinating Board for Higher Education
Office of Administration

- Division of Budget and Planning
- Administrative Hearing Commission
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Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Natural Resources
Department of Health and Senior Services
Department of Corrections
Department of Revenue
Department of Social Services
Office of the Governor
Department of Public Safety

- Director's Office

Department of Conservation
Office of Prosecution Services
State Auditor's Office
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
State Treasurer's Office
City of Centralia
City of Kansas City



L.R. No. 1952-04
Bill No. HCS for SB 516
Page 26 of 26
May 8, 2007

Mickey Wilson, CPA
Director
May 8, 2007