

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2003-03
Bill No.: Truly Agreed To and Finally Passed SS for HCS for HB 820
Subject: Department of Corrections; Crimes and Punishment
Type: Original
Date: June 1, 2007

Bill Summary: The proposal requires the Director of the Department of Corrections to select an execution team. Any current or former member of an execution team whose identity is disclosed will have a civil cause of action to seek actual or punitive damages.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
State Legal Expense	\$0	\$0	\$0
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 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
Total Estimated Net Effect on FTE	0	0	0

☐ 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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Office of **Administration – Administrative Hearing Commission, Department of Corrections, Department of Labor and Industrial Relations, Department of Insurance, Financial Institutions, and Professional Registration, and the Department of Public Safety – 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 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.

Officials from the **Office of Administration – General Services Division (COA)** assume the proposal could result in potential 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, RSMo paragraph 5.

ASSUMPTION (continued)

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 cost as affecting the general revenue fund, as general revenue funds the state legal expense fund.

Oversight assumes the costs to the state legal expense fund could exceed \$100,000 per fiscal year.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Transfers out</u> – to State Legal Expense Fund	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
STATE LEGAL EXPENSE FUND			
<u>Transfers in</u> – from General Revenue Fund	More than \$100,000	More than \$100,000	More than \$100,000
<u>Costs</u> – Office of Administration Increased liability	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON STATE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<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.

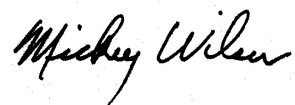
FISCAL DESCRIPTION

The proposed legislation requires the Director of the Department of Corrections to select an execution team consisting of individuals who administer lethal gas or chemicals and medical support personnel. Members of the execution team are to be entitled to coverage under the state legal expense fund.

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
Office of State Courts Administrator
Department of Corrections
Department of Insurance, Financial Institutions, and Professional Registration
Department of Public Safety
 – Director's Office
Office of Prosecution Services
Office of the State Public Defender



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Director
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