

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2363-02
Bill No.: SB 611
Subject: Crimes and Punishment; Public Defenders; Courts; Fees; Criminal Procedure
Type: # Corrected
Date: March 29, 2007
Corrected Total Estimated Net Effect on General Revenue Fund.

Bill Summary: The proposal modifies provisions relating to state court surcharges on criminal cases.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|----------------------------|--------------------------|----------------------------|
| FUND AFFECTED | FY 2008 | FY 2009 | FY 2010 |
| General Revenue | (Up to \$1,543,828) | Up to \$1,760,339 | (Up to \$2,132,930) |
| | | | |
| Total Estimated Net Effect on General Revenue Fund# | (Up to \$1,543,828) | Up to \$1,760,339 | (Up to \$2,132,930) |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 14 pages.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|----------------|----------------------------|----------------|
| FUND AFFECTED | FY 2008 | FY 2009 | FY 2010 |
| Independent Living Center | \$0 | (Up to \$146,246) | \$0 |
| Motorcycle Safety Trust | \$0 | (Up to \$275,889) | \$0 |
| Spinal Cord Injury | \$0 | (Up to \$2,415,158) | \$0 |
| Head Injury | \$0 | (Up to \$1,030,816) | \$0 |
| Contract Indigent Defense | \$0 | \$0 | \$0 |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | (Up to \$3,868,109) | \$0 |

| 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

Officials from the **Office of Administration – Administrative Hearing Commission, – Division of Budget and Planning, – General Services Division, 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 State Courts Administrator (CTS)** assume the proposed legislation would impose a \$5 surcharge in all criminal cases, including municipal and ordinance violations. This money is to be deposited into the “Contract Indigent Defense Fund,” which is created in the legislation. In addition, the proposal would repeal surcharges for the following funds: Independent Living Center Fund, Motorcycle Safety Trust Fund, Spinal Cord Injury Fund, and the Head Injury Fund.

ASSUMPTION (continued)

CTS assumes felony collection rates are only between 50% and 60%, and misdemeanor collection rates average 80%. This surcharge is assessed on misdemeanor and felony cases. Since these defendants often do not have steady employment or cash reserves, the court often gives the defendants the period of probation to pay the costs and fines. Therefore, the revenue generated the first year is less than that generated in subsequent years. CTS notes that the felony collection rate increases over a period of four years, which CTS believes to be the average probation served for felonies. The collection rate for misdemeanors increases over two years, the average probation time for misdemeanants.

Excluding the fine collection center, CTS estimates the collections as follows: based on a 50% felony collection rate, CTS calculations indicate that the legislation will produce \$979,778 in the 1st 12 months, \$1,192,424 in the 2nd 12 months, \$1,213,392 in the 3rd 12 months, and \$1,234,361 annually thereafter. Based on a 60% felony collection rate, CTS calculations indicate that the legislation will produce \$983,972 in the 1st 12 months, \$1,200,812 in the 2nd 12 months, \$1,225,973 in the 3rd 12 months, and \$1,251,135 annually thereafter.

Including the fine collection center, CTS estimates the collections as follows: based on a 50% felony collection rate, our calculations indicate that the legislation will produce \$1,543,828 in the 1st 12 months, \$1,756,474 in the 2nd 12 months, \$1,777,442 in the 3rd 12 months, and \$1,798,411 annually thereafter. Based on a 60% felony collection rate, CTS calculations indicate that the legislation will produce \$1,548,022 in the 1st 12 months, \$1,764,862 in the 2nd 12 months, \$1,790,023 in the 3rd 12 months, and \$1,815,185 annually thereafter.

Oversight has, for fiscal note purposes, used the estimates provided by Office of State Courts Administrator for a 50% felony collection rate, including the fine collection center. Oversight has adjusted the FY 08 estimates to reflect 10 months.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the independent living center fund will no longer get funding from the court surcharges, but will be funded with appropriated monies transferred from GR. As long as these monies are transferred, there will be no net fiscal impact; however, if the transfers do not occur, the impact would be a loss of \$390,556 for the independent living program.

In addition, DESE assumes there would be an immediate fiscal impact related to “sweeping” the fund. The fund balance at the end of the fiscal year is estimated to be \$180,000.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** 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.

Officials from the **Office of the State Public Defender (SPD)** assume the legislation would enable the public defender system to contract out certain categories of cases now handled by public defenders: stand-alone misdemeanor cases, conflict cases, felony bad check cases, and felony criminal non-support cases.

SPD is unable to anticipate the dollar impact that would come from re-routing certain court cost collections to a Public Defender Contract Fund, but all funds collected would have a positive dollar impact and reduce the amount of general funds needed. SPD estimates the cost of the contracts as follows:

23,000 stand-alone misdemeanor cases @ \$300 each = \$6.9 million
3,050 conflict cases @ \$750 each = \$2.3 million
1,109 felony criminal non-support case @ \$500 each = \$554,500
1,744 felony bad check cases @ \$500 each = \$872,000

SPD assumes the total anticipated funding needed to implement the contract portion of this legislation to be \$10,626,500. SPD states this does not take into account those dollars that would be gained by re-routing court costs. Presumably these estimated costs would be reduced by the amount of court costs collected.

Oversight assumes the legislation gives the Office of the State Public Defender (SPD) the authority to enter into contracts with private counsel for the provision of indigent defense services, but does not require the SPD enter into contracts with private counsel for all eligible cases. Oversight assumes the SPD would enter into such contracts up to the amount of funds received into the contract indigent defense fund from the court surcharges on criminal cases.

ASSUMPTION (continued)

Officials from the **State Treasurer's Office (STO)** assume the "Independent Living Center Fund" will be funded by general revenue instead of the \$1 criminal case surcharge and will be subject to a biennial transfer. The "Motorcycle Safety Trust Fund" will be funded by general revenue instead of the \$1 criminal case surcharge and will be subject to a biennial transfer. The "Spinal Cord Injury Fund" will be funded by general revenue instead of the \$2 criminal case surcharge and will be subject to a biennial transfer. The "Head Injury Fund" will be funded by general revenue instead of the \$2 criminal case surcharge and will be subject to a biennial transfer. The proposal also establishes a \$5 surcharge on all criminal cases to be paid to the "Contract Indigent Defense Fund."

The STO assumes no impact to their agency. Officials assume an increase to general revenue due to the changes in the biennial transfer status of the above-mentioned funds. Officials estimate this increase in general revenue to be \$0 to Unknown.

Oversight notes the following FY 06 year end cash balances in the affected funds:

| Fund | FY 06 Ending Balance |
|--------------------------------|-----------------------------|
| Independent Living Center Fund | \$146,246 |
| Motorcycle Safety Trust Fund | \$275,889 |
| Spinal Cord Injury Fund | \$2,415,158 |
| Head Injury Fund | \$1,030,816 |
| Total | \$3,868,109 |

Oversight notes there may have been outstanding accounts payable balances that are not reflected in the FY 06 ending balances. Therefore, for fiscal note purposes, Oversight has reflected the transfers from these funds to the general revenue fund as an unknown amount, up to the above balances.

Oversight assumes the transfers would be made on July 1, 2008.

ASSUMPTION (continued)

Oversight assumes, based on data provided by Office of State Courts Administrator, the transfers from general revenue to the affected funds to replace the court surcharges would be approximately:

| Fund | Court Surcharges | | |
|--------------------------------------|--------------------|--------------------|--------------------|
| | FY 08 | FY 09 | FY 10 |
| Independent Living Center Fund (\$1) | \$257,305 | \$351,295 | \$355,488 |
| Motorcycle Safety Trust Fund (\$1) | \$257,305 | \$351,295 | \$355,488 |
| Spinal Cord Injury Fund (\$2) | \$514,609 | \$702,590 | \$710,977 |
| Head Injury Fund (\$2) | \$514,609 | \$702,590 | \$710,977 |
| Total | \$1,543,828 | \$2,107,770 | \$2,132,930 |

Officials from the University of Missouri did not respond to Oversight's request for fiscal impact.

| <u>FISCAL IMPACT - State Government</u> | FY 2008 (10 Mo.) | FY 2009 | FY 2010 |
|---|---------------------|---------------------|---------------------|
| GENERAL REVENUE FUND | | | |
| <u>Transfers in</u> – Biennial transfers | | | |
| From Independent Living Center Fund | \$0 | Up to \$146,246 | \$0 |
| From Motorcycle Safety Trust Fund | \$0 | Up to \$275,889 | \$0 |
| From Spinal Cord Injury Fund | | Up to | |
| | \$0 | \$2,415,158 | \$0 |
| From Head Injury Fund | | Up to | |
| | <u>\$0</u> | <u>\$1,030,816</u> | <u>\$0</u> |
| <u>Total Transfers in</u> | | Up to | |
| | \$0 | \$3,868,109 | \$0 |
| <u>Transfers out</u> – Replacing court surcharges | | | |
| To Independent Living Center Fund | (Up to | (Up to | (Up to |
| | \$257,305) | \$351,295) | \$355,488) |
| To Motorcycle Safety Trust Fund | (Up to | (Up to | (Up to |
| | \$257,305) | \$351,295) | \$355,488) |
| To Spinal Cord Injury Fund | (Up to | (Up to | (Up to |
| | \$514,609) | \$702,590) | \$710,977) |
| To Head Injury Fund | (Up to | (Up to | (Up to |
| | <u>\$514,609)</u> | <u>\$702,590)</u> | <u>\$710,977)</u> |
| <u>Total Transfers out</u> | (Up to | (Up to | (Up to |
| | <u>\$1,543,828)</u> | <u>\$2,107,770)</u> | <u>\$2,132,930)</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
| | <u>(Up to</u> | <u>Up to</u> | <u>(Up to</u> |
| | <u>\$1,543,828)</u> | <u>\$1,760,339</u> | <u>\$2,132,930)</u> |

| <u>FISCAL IMPACT - State Government</u> (continued) | FY 2008 (10 Mo.) | FY 2009 | FY 2010 |
|--|---------------------|--------------------------|-------------------|
| INDEPENDENT LIVING CENTER FUND | | | |
| <u>Transfers in</u> – From General Revenue Fund | | | |
| To replace lost court surcharges | Up to \$257,305 | Up to \$351,295 | Up to \$355,488 |
| <u>Losses</u> – Department of Elementary and Secondary Education Court surcharges on criminal cases | (Up to \$257,305) | (Up to \$351,295) | (Up to \$355,488) |
| <u>Transfers out</u> – To General Revenue Fund | | | |
| Biennial fund balance transfer | <u>\$0</u> | <u>(Up to \$146,246)</u> | <u>\$0</u> |
| ESTIMATED NET EFFECT ON INDEPENDENT LIVING CENTER FUND | | | |
| | <u>\$0</u> | <u>(Up to \$146,246)</u> | <u>\$0</u> |

| <u>FISCAL IMPACT - State Government</u> (continued) | FY 2008 (10 Mo.) | FY 2009 | FY 2010 |
|---|----------------------|------------------------------|----------------------|
| MOTORCYCLE SAFETY TRUST FUND | | | |
| <u>Transfers in</u> – From General Revenue Fund | | | |
| To replace lost court surcharges | Up to \$257,305 | Up to \$351,295 | Up to \$355,488 |
| <u>Losses</u> – Department of Public Safety | | | |
| Court surcharges on criminal cases | (Up to \$257,305) | (Up to \$351,295) | (Up to \$355,488) |
| <u>Transfers out</u> – To General Revenue Fund | | | |
| Biennial fund balance transfer | <u>\$0</u> | <u>(Up to \$275,889)</u> | <u>\$0</u> |
| ESTIMATED NET EFFECT ON MOTORCYCLE SAFETY TRUST FUND | | | |
| | <u>\$0</u> | <u>(Up to \$275,889)</u> | <u>\$0</u> |

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

SPINAL CORD INJURY FUND

Transfers in – From General Revenue
Fund

| | | | |
|----------------------------------|-----------------|-----------------|-----------------|
| To replace lost court surcharges | Up to \$514,609 | Up to \$702,590 | Up to \$710,977 |
|----------------------------------|-----------------|-----------------|-----------------|

Losses – University of Missouri

| | | | |
|------------------------------------|----------------------|----------------------|----------------------|
| Court surcharges on criminal cases | (Up to \$514,609) | (Up to \$702,590) | (Up to \$710,977) |
|------------------------------------|----------------------|----------------------|----------------------|

Transfers out – To General Revenue Fund

| | | | |
|--------------------------------|------------|--------------------------------|------------|
| Biennial fund balance transfer | <u>\$0</u> | (Up to <u>\$2,415,158</u>) | <u>\$0</u> |
|--------------------------------|------------|--------------------------------|------------|

| | | | |
|--|-------------------|---------------------------------------|-------------------|
| ESTIMATED NET EFFECT ON SPINAL CORD INJURY FUND | <u>\$0</u> | (Up to <u>\$2,415,158</u>) | <u>\$0</u> |
|--|-------------------|---------------------------------------|-------------------|

HEAD INJURY FUND

Transfers in – From General Revenue
Fund

| | | | |
|----------------------------------|-----------------|-----------------|-----------------|
| To replace lost court surcharges | Up to \$514,609 | Up to \$702,590 | Up to \$710,977 |
|----------------------------------|-----------------|-----------------|-----------------|

Losses – University of Missouri

| | | | |
|------------------------------------|----------------------|----------------------|----------------------|
| Court surcharges on criminal cases | (Up to \$514,609) | (Up to \$702,590) | (Up to \$710,977) |
|------------------------------------|----------------------|----------------------|----------------------|

Transfers out – To General Revenue Fund

| | | | |
|--------------------------------|------------|--------------------------------|------------|
| Biennial fund balance transfer | <u>\$0</u> | (Up to <u>\$1,030,816</u>) | <u>\$0</u> |
|--------------------------------|------------|--------------------------------|------------|

| | | | |
|---|-------------------|---------------------------------------|-------------------|
| ESTIMATED NET EFFECT ON HEAD INJURY FUND | <u>\$0</u> | (Up to <u>\$1,030,816</u>) | <u>\$0</u> |
|---|-------------------|---------------------------------------|-------------------|

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

**CONTRACT INDIGENT DEFENSE
 FUND**

Revenues – Office of the State Public
 Defender

| | | | |
|------------------------------------|-------------|-------------|-------------|
| Court surcharges on criminal cases | \$1,286,523 | \$1,756,474 | \$1,777,442 |
|------------------------------------|-------------|-------------|-------------|

Costs – Office of the State Public
 Defender

| | | | |
|------------------------------|---------------|---------------|---------------|
| Payments to contract counsel | (\$1,286,523) | (\$1,756,474) | (\$1,777,442) |
|------------------------------|---------------|---------------|---------------|

**ESTIMATED NET EFFECT ON
 CONTRACT INDIGENT DEFENSE
 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 repeals the court surcharges assessed and collected for the credit of the head injury fund, the independent living center fund, the motorcycle safety trust fund, and the spinal cord injury fund, and provides that such funds will be funded with appropriated moneys transferred from the state general revenue fund. The proposal also provides that all moneys in such funds at the end of any biennium shall be transferred to the state general revenue fund.

FISCAL DESCRIPTION (continued)

The proposal provides that a surcharge of five dollars shall be assessed and collected in all criminal cases filed in the courts of this state, including violations of any country ordinance, violations of criminal or traffic laws of this state, including infractions, to be deposited into the contract indigent defense fund. Money from the fund shall be used to pay contract counsel to represent eligible indigent persons who are charged with certain offenses. All moneys in the fund at the end of any biennium shall be transferred to the state general revenue 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 Administration

- Administrative Hearing Commission
- Division of Budget and Planning
- General Services Division

Office of State Courts Administrator

Department of Elementary and Secondary Education

Department of Public Safety

- Missouri State Highway Patrol
- Director's Office

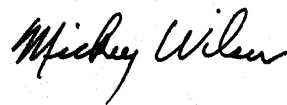
Office of the Secretary of State

Office of the State Public Defender

State Treasurer's Office

NOT RESPONDING

University of Missouri



Mickey Wilson, CPA

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