

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3680-07
Bill No.: SCS for SB 767
Subject: Crimes and Punishment; Public Defenders; Courts; Fees; Criminal Procedure
Type: Original
Date: March 5, 2008

Bill Summary: The proposal modifies provisions relating to the public defender system.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|--------------------|--------------------|--------------------|
| FUND AFFECTED | FY 2009 | FY 2010 | FY 2011 |
| General Revenue | (\$140,000) | (\$173,040) | (\$178,231) |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | (\$140,000) | (\$173,040) | (\$178,231) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2009 | FY 2010 | FY 2011 |
| | | | |
| | | | |
| 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 2009 | FY 2010 | FY 2011 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2009 | FY 2010 | FY 2011 |
| | | | |
| | | | |
| 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 2009 | FY 2010 | FY 2011 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Governor, Department of Corrections, Department of Public Safety – Director’s Office, Missouri Senate,** and the **City of Columbia** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (SB 76, LR # 3680-01), officials from the **Office of Administration – Division of Budget and Planning** assumed the proposal would have no fiscal impact on their agency.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would modify several provisions relating to the public defender system. CTS assumes there will be a local cost to the jails for pretrial incarceration. In addition, CTS assumes the legislation will create a backlog in the courts criminal docket, which may lead to the dismissal of criminal cases. CTS assumes there may be a cost to the courts, but they have no way of quantifying the cost at this time. Any significant increase would be reflected in future budget requests.

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 place those cases above the maximum allowable caseload for public defenders on a waiting list for public defender services. This version of the proposal does not require the contracting out of such cases. SPD assumes they would incur additional cost for parking for public defender employees as a result of this proposal. SPD estimates the cost to be \$80/month x 12 months x 175 employees = \$168,000 per year. SPD notes the parking was included in the SPD’s FY 2009 Legislative Budget Request and the Governor did not recommend funding.

ASSUMPTION (continued)

Oversight assumes state and local government offices can absorb the cost of providing financial records and information about a person seeking services from the public defender system to any employee of the system, upon request and without a fee, as required in Section 600.086. Oversight also assumes public offices can absorb the cost of providing public defenders with photographs, recordings, and electronic files at no cost, as required in Section 600.096.

Officials from the Office of the Attorney General, Missouri House of Representatives, and the Office of Prosecution Services did not respond to Oversight’s request for fiscal impact.

| <u>FISCAL IMPACT - State Government</u> | FY 2009 (10 Mo.) | FY 2010 | FY 2011 |
|---|---------------------------|---------------------------|---------------------------|
| GENERAL REVENUE FUND | | | |
| <u>Costs – Office of the State Public Defender</u> | | | |
| Parking for employees | <u>(\$140,000)</u> | <u>(\$173,040)</u> | <u>(\$178,231)</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | <u>(\$140,000)</u> | <u>(\$173,040)</u> | <u>(\$178,231)</u> |
| | | | |
| <u>FISCAL IMPACT - Local Government</u> | FY 2009 (10 Mo.) | FY 2010 | FY 2011 |
| | <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 modifies various provisions relating to the public defender system.

The commission shall establish maximum public defender caseload standards in order to fulfill the constitutional obligation to provide effective counsel and comply with the rules of professional conduct. In doing so, the commission shall consider national defender caseload standards, particulars of local practice, the needs of the criminal justice system, and other pertinent factors. (Section 600.017)

The state shall pay for the parking costs for public defender system employees. (Section 600.040)

The director shall ensure that public defender caseloads remain within the maximum defender caseloads established by the commission. Where the number of cases exceeds the maximum caseload, the director shall contract the excess cases to private counsel when funds are available. If funds are not available, the director shall notify the court that the public defender is unavailable. Persons eligible for public defender services shall then be placed on a waiting list for services and the court shall proceed as provided in this section. (Section 600.042)

The proposal requires state and local government offices to provide financial records and information about a person seeking services from the public defender system to any employee of the system, upon request and without a fee. Currently, only persons in certain positions may request such information. (Section 600.086)

The proposal also requires public offices to provide public defenders with photographs, recordings, and electronic files at no cost. (Section 600.096)

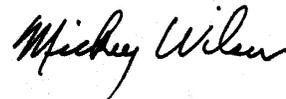
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Governor
Office of Administration
 – Division of Budget and Planning
Office of State Courts Administrator
Department of Corrections
Department of Public Safety
 – Director's Office
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
City of Columbia

NOT RESPONDING

Office of the Attorney General
Missouri House of Representatives
Office of Prosecution Services



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Director
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