

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3680-08
Bill No.: HCS for SCS for SB 767
Subject: Crimes and Punishment; Public Defenders; Courts; Fees; Criminal Procedure
Type: Original
Date: May 6, 2008

Bill Summary: The proposal modifies provisions relating to the public defender system and modifies the circuit and associate circuit judge positions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	\$119,997	\$239,856	\$245,571
Total Estimated Net Effect on General Revenue Fund	\$119,997	\$239,856	\$245,571

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 9 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
General Revenue	0	0	0
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 **Department of Public Safety – Director’s Office, City of Columbia**, and the **City of Centralia** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (SCS for SB 767, LR # 3680-07), officials from the **Office of the Governor, Department of Corrections, Missouri House of Representatives, Missouri Senate**, and **Clinton County** assumed 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 the Attorney General** assume any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Office of Prosecution Services (OPS)** assume the fiscal impact to county prosecutors is unknown. OPS also assumes the proposed legislation would not have a significant direct fiscal impact on the OPS.

Oversight assumes county prosecutors could absorb any costs associated with the proposed legislation within existing resources.

Sections 478.387, 478.437, 478.463, 478.513, 478.750, 478.755, and 478.760 – Circuit and Associate Circuit Judge Positions

Officials from the **Office of State Courts Administrator (CTS)** assumes the proposal would remove six circuit judges from the 22nd circuit and one circuit judge from the 43rd circuit. It is unclear when each of these circuit judge positions will expire. To simplify fiscal calculations, CTS assumes these circuit judge positions will end on October 1, 2008.

Beginning October 1, 2008, a total of seven associate circuit judge positions will be added to the 16th, 21st, 31st, 39th, and 40th circuits.

ASSUMPTION (continued)

For each associate circuit judge, the cost is as follows:

Associate Circuit Court Judge:	\$106,181 per year, plus fringes
Court Clerk III:	\$30,264 per year, plus fringes

After the circuit judge positions expire, the state will annually save approximately \$400,000 per year. There may be some additional county costs for these new judge positions.

Oversight assumes certain counties and the City of St. Louis may experience a savings in expenses for the decreased number of circuit judges and court reporters. Also, certain counties may experience increased costs with an increase in the number of associate circuit court judges and court clerks. For fiscal note purposes, Oversight assumes the unknown savings and unknown costs to counties will net to zero. Additionally, Oversight has shown the FTE loss of 7 circuit judges and 7 court reporters and the gain of 7 associate circuit judges and 7 court clerks as netting to zero.

Chapter 600 – State Public Defender System

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.

In response to a previous version of the proposal (SCS for SB 767, LR # 3680-07), officials from the **Office of the Secretary of State (SOS)** assumed 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)

In response to a previous version of the proposal (SCS for SB 767, LR # 3680-07), officials from the **Office of the State Public Defender (SPD)** assumed 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.

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 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>Savings</u> – Office of State Courts			
Administrator (§§ 478.387 & 478.750)			
Personal Service	\$921,357	\$1,265,330	\$1,303,290
Fringe Benefits	<u>\$597,153</u>	<u>\$1,185,448</u>	<u>\$1,202,234</u>
<u>Total Savings</u> – CTS	\$1,518,510	\$2,450,778	\$2,505,524
FTE Change – CTS	(14 FTE)	(14 FTE)	(14 FTE)
 <u>Costs</u> – Office of State Courts			
Administrator (§§ 478.437, 478.463, 478.513, 478.755, and 478.760)			
Personal Service	(\$737,826)	(\$1,013,282)	(\$1,043,680)
Fringe Benefits	(\$504,762)	(\$1,024,600)	(\$1,038,042)
Expense and Equipment	<u>(\$15,925)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs</u> - CTS	(\$1,258,513)	(\$2,037,882)	(\$2,081,722)
FTE Change – CTS	14 FTE	14 FTE	14 FTE
 <u>Costs</u> – Office of the State Public Defender			
Parking for employees	<u>(\$140,000)</u>	<u>(\$173,040)</u>	<u>(\$178,231)</u>
 ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>\$119,997</u>	<u>\$239,856</u>	<u>\$245,571</u>
 Estimated Net FTE Change for General Revenue Fund			
	0 FTE	0 FTE	0 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
LOCAL GOVERNMENT			
<u>Savings</u> – Counties and City of St. Louis (§§ 478.387 & 478.750)			
County expenses for circuit court judges and court reporters	Unknown	Unknown	Unknown
<u>Costs</u> – Counties (§§ 478.437, 478.463, 478.513, 478.755, and 478.760)			
County expenses for associate circuit court judges and court clerks	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<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 proposal removes six circuit judges from the 22nd judicial circuit and one circuit judge from the 43rd judicial circuit. The proposal also adds a total of seven associate circuit judge positions to the 16th, 21st, 31st, 39th, and 40th judicial circuits. (Sections 478.387, 478.437, 478.463, 478.513, 478.750, 478.755, and 478.760)

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)

FISCAL DESCRIPTION (continued)

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)

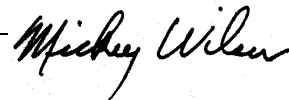
The proposal requires state and local government offices to provide financial records and information about a person seeking services from the public defender system to any employee of the system, upon request and without a fee. Currently, only persons in certain positions may request such information. (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 Attorney General
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 House of Representatives
Office of Prosecution Services
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
City of Columbia
City of Centralia
Clinton County



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