

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5288-01
Bill No.: SB 1185
Subject: Crimes and Punishment; Criminal Procedure; Attorneys
Type: Original
Date: March 3, 2008

Bill Summary: The proposal modifies various provisions relating to crime.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(\$219,331)	(\$239,957)	(\$247,155)
Total Estimated Net Effect on General Revenue Fund	(\$219,331)	(\$239,957)	(\$247,155)

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 8 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	4	4	4
Total Estimated Net Effect on FTE	4	4	4

- 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 Elementary and Secondary Education, Department of Public Safety – Director’s Office, – Missouri State Highway Patrol, and St. Louis County** 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 modify the change of venue procedure. Currently, change of venue applications for both felony and misdemeanor cases are filed within 10 days of the initial plea. The proposed language would extend the filing deadline for felony cases, and the application shall be filed not later than thirty days after the date of arraignment. In misdemeanor cases, the application shall be filed not later than ten days before the date set for trial.

With the extended filing times, courts will have difficulty setting the dockets. CTS would not anticipate a fiscal impact on the judiciary.

Officials from the **Department of Corrections (DOC)** assume they cannot currently 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.

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 (FY07 average of \$41.21 per inmate per day, or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender per day, or an annual cost of \$887 per offender).

The following factors contribute to DOC’s minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders;
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence; and
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Revenue (DOR)** assume this proposal eliminates the requirement for local prosecuting attorneys to appear on behalf of the Director of Revenue, and prosecute or defend, any driver license suspension, revocation or denial action (302.311); refusal to submit to breath, blood or urine test appeals for persons arrested for driving while intoxicated (alcohol or drugs) for Commercial Driver License holders (CDL-per 302.750.4); and any other non-CDL holders (577.041.4).

This proposal will require the Department of Revenue, General Counsel's Office to appear and represent the Director of Revenue in these cases in circuit courts throughout the state. While the General Counsel's Office handles a number of these cases currently, the additional caseload anticipated would require an additional 3 FTE legal counsel positions (each at \$42,672 per year), one each for the Kansas City, St. Louis, and Jefferson City offices, and 1 additional FTE support staff (at \$26,760 per year) in the Jefferson City office.

DOR estimates the total cost of the proposal to be approximately \$223,000 in FY 09 and approximately \$250,000 in subsequent years.

Oversight assumes the Department of Revenue would house the additional FTE within existing facilities. Therefore, the fiscal impact does not include rent or janitorial costs. The equipment expenses have been adjusted to reflect the Office of Administration's expense and equipment guidelines.

Officials from the **Office of the State Public Defender (SPD)** assume increasing penalties on existing crimes, or creating new crimes, 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.

ASSUMPTION (continued)

Officials from **Clinton County** assume they would incur additional costs in the form of legal/court fees as well as the cost to add staff to prosecute and staff for the public defender.

Oversight assumes Clinton County could absorb any increased prosecutorial costs resulting from the provisions in the proposal within existing resources.

Officials from the Office of the Attorney General, Office of Prosecution Services, Columbia Public Schools, Kansas City Public School Board, Mexico Public Schools, Nixa Public Schools, Parkway Public Schools, Sedalia School District, and the St. Louis Public Schools 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 – Department of Revenue (DOR)</u>			
Personal Service	(\$132,849)	(\$164,202)	(\$169,128)
Fringe Benefits	(\$58,746)	(\$72,610)	(\$74,788)
Equipment and Expense	<u>(\$27,736)</u>	<u>(\$3,145)</u>	<u>(\$3,239)</u>
<u>Total Costs – DOR</u>	<u>(\$219,331)</u>	<u>(\$239,957)</u>	<u>(\$247,155)</u>
FTE Change – DOR	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$219,331)</u>	<u>(\$239,957)</u>	<u>(\$247,155)</u>
Estimated Net FTE Change for General Revenue Fund	4 FTE	4 FTE	4 FTE
 <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 removes the prosecuting attorney from certain actions not directly involving the prosecution of a crime, including bringing suit against a person who has not properly trimmed his or her hedges and appearing on behalf of the director of the Department of Revenue for administrative actions regarding a person's driving privileges. (§§ 229.110, 302.311, 302.750, 577.041)

The proposal repeals the current provision regarding change of venue in a criminal proceeding. Under this act, upon written application of the defendant, a change of venue may be ordered because the inhabitants of the county are prejudiced against the defendant or the state has an undue influence over the county inhabitants. The proposal sets out the procedure for the defendant to file for a change in venue and for the state to file a denial of the existence of the reasons to justify such change of venue. (§ 545.490)

Provisions requiring the prosecution or county to pay costs when a case is discharged or the defendant is acquitted are repealed. (§§ 550.050, 550.070, 550.080, 550.090)

Currently, sexual offenders who commit certain offenses against a child are prohibited from residing within 1,000 feet of a school or child-care facility. The proposal would prohibit all persons required to register as a sexual offender from residing within such distance of a school or child-care facility. (§ 566.147)

Currently, a person commits the crimes of hindering a prosecution or tampering with physical evidence by committing certain acts. Under the proposal, attempting to commit such acts constitutes a crime. The crime of hindering prosecution is a class D felony if the apprehension, prosecution, conviction, or punishment hindered relates to a felony, rather than if the actions taken by the offender constitute a felony in and of themselves. (§§ 575.030, 575.100)

The proposal specifies that the crime of resisting or interfering with arrest, detention, or stop applies to arrests on warrants issued for probation and parole violations and arrests on capias warrants or bench warrants issued by a federal, state, or municipal judge. Resisting or interfering with an arrest for a probation violation warrant, parole violation warrant, capias warrant, or bench warrant, where such warrant issue was related to a felony, is a class D felony. (§ 575.150)

FISCAL DESCRIPTION (continued)

Under the proposal, a person commits the crime of tampering with a judicial proceeding if, with purpose to influence the official action of a prosecuting attorney, he or she threatens or causes harm to any person or property, engages in harassing behavior toward the prosecuting attorney, or offers any benefit to such prosecuting attorney. (§ 575.260)

The proposal adds incest and sexual exploitation of a minor to the list of offenses for which a person must register as a sexual offender. (§ 589.400)

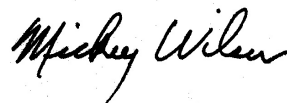
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Corrections
Department of Revenue
Department of Public Safety
 – Missouri State Highway Patrol
 – Director's Office
Office of the State Public Defender
St. Louis County

NOT RESPONDING

Office of the Attorney General
Office of Prosecution Services
Columbia Public Schools
Kansas City Public School Board
Mexico Public Schools
Nixa Public Schools
Parkway Public Schools
Sedalia School District
St. Louis Public Schools



L.R. No. 5288-01
Bill No. SB 1185
Page 8 of 8
March 3, 2008

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March 3, 2008