

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5288-02
Bill No.: Perfected SCS for SB 1185
Subject: Crimes and Punishment; Criminal Procedure; Attorneys
Type: Original
Date: April 2, 2008

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(\$21,842)	(\$7,922)	(\$8,160)
Total Estimated Net Effect on General Revenue Fund	(\$21,842)	(\$7,922)	(\$8,160)

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	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Director’s Office, – Missouri State Highway Patrol, Office of the State Public Defender, and St. Louis County** 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 (CTS)** assume the proposed legislation would have no fiscal impact on the courts.

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.

DOR will use existing staff (3) to absorb the impact; however, there will be travel expenses per attorney at a rate of \$3,175 annually (this includes mileage, overnight travel, rental cars, and gas and maintenance for state vehicles when used). Additionally, there will be office expenses.

DOR estimates the total cost to be approximately \$37,000 in FY 09 and \$15,000 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.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services (OPS)** assume the proposed revisions to §§ 302.311, 302.750, and 577.041 will result in much improved efficiencies for county prosecutors and for the Department of Revenue (DOR). The current method of handling judicial review petitions for actions by DOR against driver's licenses results in attorneys from DOR and prosecutors from county prosecutor's offices being in the same courtroom at the same time handling different varieties of drivers license review hearings. The proposed revisions would result in DOR attorneys handling all civil administrative review cases and prosecutors handling only criminal matters.

OPS assumes the efficiencies realized will result from a more efficient use of attorney time while in court and from DOR not having to refer certain cases to prosecutors and the time it takes to gather and send such referrals and to thereafter communicate with a large number of different prosecutors on those cases.

A reduction in the number of cases referred to prosecuting attorneys will have a positive fiscal impact for those prosecutors. OPS is not aware of the number of cases that are annually referred to the various county prosecutors by the Department of Revenue pursuant to the provisions of §§ 302.311, 302.750, and 577.041 and therefore cannot offer any estimates of the number cases that would no longer be referred to County Prosecutors for legal action.

OPS states the provisions of §§ 229.110, 550.050, 550.070, 550.080, and 550.090 are outdated statutes that provide some potential personal liability for prosecutors but no longer have any practical application under the present rules and practices of criminal procedure. Any fiscal impact related to the repeal of these statutes is purely theoretical.

OPS assumes none of these proposals would have a significant direct fiscal impact on the Office of Prosecution Services.

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 **Platte County** assume the proposal has no adverse fiscal impact for counties. In fact, the proposal has a positive fiscal impact for counties.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Costs – Department of Revenue (DOR)</u>			
Equipment and Expense	<u>(\$21,842)</u>	<u>(\$7,922)</u>	<u>(\$8,160)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$21,842)</u>	<u>(\$7,922)</u>	<u>(\$8,160)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
LOCAL GOVERNMENT			
<u>Savings – County Prosecutors</u>			
Reduced cases	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

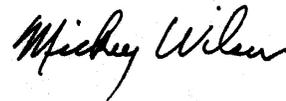
The proposed legislation removes the prosecuting attorney from certain actions not directly involving the prosecution of a crime, including bringing suit against a person who has not properly trimmed his or her hedges and appearing on behalf of the director of the Department of Revenue for administrative actions regarding a person’s driving privileges. (§§ 229.110, 302.311, 302.750, 577.041)

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)

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 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 Prosecution Services
Office of the State Public Defender
Clinton County
Platte County



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