

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0468-05
Bill No.: Perfected HCS for HB 62
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies; Drugs and Controlled Substances
Type: Original
Date: April 8, 2009

Bill Summary: The proposal modifies various crime prevention laws.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(More than \$317,734)	(More than \$358,817)	(More than \$366,583)
Total Estimated Net Effect on General Revenue Fund	(More than \$317,734)	(More than \$358,817)	(More than \$366,583)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Crime Victims' Compensation	(\$207,458)	(\$207,458)	(\$207,458)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$207,458)	(\$207,458)	(\$207,458)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
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 2010	FY 2011	FY 2012
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, Department of Transportation, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Public Safety – Missouri State Highway Patrol** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (HCS for HB 62, LR # 0468-05), officials from the **Department of Natural Resources, Department of Social Services, Office of the Governor, Department of Conservation, City of Kansas City, Boone County Sheriff's Department,** and the **Springfield Police Department** assumed the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (HCS for HB 62, LR # 0468-05), officials from the **Office of the Attorney General** assumed any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Corrections (DOC)** assume the provisions in several sections (§§271.670, 409.5-508, 565.081, 575.150, 578.255. HA 2 as amended, HA 3, HA 4, HA 5, HA 7, and HA 8) would increase penalties, potentially resulting in increased incarcerations and/or probations to the DOC. In aggregate, these changes could impact the DOC by an unknown but greater than \$100,000 amount per fiscal year.

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 direct offender cost either through incarceration (FY08 average of \$15.64 per offender, per day or an annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender).

At this time, the DOC is unable to determine the exact number of people who would be convicted under the provisions of this bill and whether or not additional inmate beds may be required as a consequence of passage of this proposal. The cumulative effect of various new legislation, if adopted as statute may require institutional facility expansion.

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eighteen (18) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. DOC estimates potential costs could be in excess of \$100,000 per year.

Officials from the **Department of Revenue (DOR)** provided the following Office of Administration – Information Technology Services Division (ITSD DOR) impact:

ITSD DOR estimates this legislation could be implemented utilizing one existing Computer Information Technologist III for one month at a rate of \$4,441. ITSD DOR estimates the IT portion of this request can be accomplished within existing resources; however, if priorities shift, additional FTE/overtime would be needed to implement the provisions of the proposal.

In response to a previous version of the proposal (HCS for HB 62, LR # 0468-05), 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.

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)

Sections 302.311 and 302.750 – Director of Revenue to Appear Instead of Prosecuting Attorney

Officials from the **Department of Revenue (DOR)** assume Section 302.311 of the proposal would require DOR Legal Services Division attorneys to assume legal representation for the Department and appear in court for all driver's license suspension, revocation, and denial cases (primarily section 577.041 chemical refusal license revocation appeals) in all 114 Missouri counties, in lieu of local prosecutors. Part of this function is currently performed by Department attorneys.

DOR also assumes Section 302.750 would require Department attorneys to assume representation for all commercial driver license (CDL) chemical refusal revocation appeals in circuit courts located in all 114 Missouri counties. DOR officials would expect minimal impact, however, as the number of appeals under these provisions (CDL refusal) have been historically nominal.

DOR assumes the proposal would result in an ongoing obligation upon the Department to provide legal representation in lieu of local prosecuting attorneys for all succeeding fiscal years.

DOR assumes the following administrative impact:

DOR anticipates that the Transportation Unit, General Counsel's Office will require three additional FTE Legal Counsel positions (one each for the Jefferson City, Kansas City and St. Louis offices), at \$43,956 per FTE; one additional FTE Senior Office Support staff position, at \$27,564 per FTE, in the Jefferson City office; together with additional travel/per diem expense funds due to increased travel throughout the state required to cover an increased case load.

DOR estimates the fiscal impact of the proposal to be approximately \$224,000 in FY 2010 and approximately \$280,000 in subsequent fiscal 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 proposal will have no fiscal impact on OPS. The proposed changes to Section 302.311 may have a positive fiscal impact on prosecuting attorneys by removing the mandate to represent the state in administrative licensing actions. As prosecuting attorneys receive no compensation for this service, removing this mandate will allow prosecutors to expend their limited resources prosecuting criminal offenses.

Section 595.030 – Crime Victims’ Compensation Fund

In response to a previous version of the proposal (HCS for HB 62, LR # 0468-05), officials from the **Department of Public Safety – Director’s Office** assumed the maximum per week wages allowed would increase from \$200 to \$400 per week, increasing the amount of lost wages paid per year.

Based on three years Lost Wages Claims:

FY 06	259 Claims	Total Paid - \$343,824
FY 07	245 Claims	Total Paid - \$311,033
FY 08	268 Claims	Total Paid - \$435,412

Current Paid:

257 Claims Average at \$1,407.23 average/claim (at \$200 max/week) = \$361,658.11

Future Paid:

257 Claims Average at \$2,214.46 average/claim (at \$400 max/week) = \$561,116.22

Fiscal Impact: \$207,458.11

Section 650.470 – Reverend Nathaniel Cole Memorial Reduction Grant Program

In response to a previous version of the proposal (HCS for HB 62, LR # 0468-05), officials from the **Department of Public Safety – Director’s Office (DPS)** assumed the provisions in this section would result in an unknown fiscal impact. DPS does not know how many agencies these funds would be available to, nor how much money would be available to grant to the agencies.

ASSUMPTION (continued)

HA 1 – Sections 479.260 and 488.5032 – Court Costs

In response to a previous version of the proposal (HCS for HB 384, LR # 1222-04), officials from the **Office of State Courts Administrator** assumed Sections 479.260 and 488.5032 of the proposed legislation would allow courts to charge costs in municipal and criminal cases where the charges are dismissed.

Oversight assumes Sections 479.260 and 488.5032 of the proposal are permissive, and are dependent upon the judge choosing to assess the costs and the defendant consenting to paying the costs. For fiscal note purposes, Oversight has reflected no fiscal impact.

Officials from the State Treasurer’s Office, Jackson County Sheriff’s Department, St. Louis County Police Department, Columbia Police Department, Kansas City Police Department, and the St. Louis Metropolitan Police Department did not respond to Oversight’s request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs (various sections)	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Costs – Department of Revenue (DOR)</u> (302.311, 302.750)			
Personal Service	(\$136,846)	(\$169,141)	(\$174,216)
Fringe Benefits	(\$66,548)	(\$82,253)	(\$84,721)
Equipment and Expense	<u>(\$14,340)</u>	<u>(\$7,423)</u>	<u>(\$7,646)</u>
<u>Total Costs – DOR</u>	<u>(\$217,734)</u>	<u>(\$258,817)</u>	<u>(\$266,583)</u>
FTE Change – DOR	4 FTE	4 FTE	4 FTE
<u>Costs – Department of Public Safety –</u> Director’s Office (DPS) (650.470)			
For Reverend Nathaniel Cole Memorial Pursuit Reduction Grants	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>(More than \$317,734)</u>	<u>(More than \$358,817)</u>	<u>(More than \$366,583)</u>
Estimated Net FTE Change for General Revenue Fund	4 FTE	4 FTE	4 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2010 (10 Mo.)	FY 2011	FY 2012
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**CRIME VICTIMS'
 COMPENSATION FUND**

<u>Costs</u> – Department of Public Safety Increased maximum allowances (595.030)	<u>(\$207,458)</u>	<u>(\$207,458)</u>	<u>(\$207,458)</u>
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ESTIMATED NET EFFECT ON CRIME VICTIMS' COMPENSATION FUND	<u>(\$207,458)</u>	<u>(\$207,458)</u>	<u>(\$207,458)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
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LOCAL GOVERNMENT

<u>Savings</u> – County prosecutors Reduced cases (302.311)	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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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 crime prevention laws:

Section 217.670 – When the appearance or presence of an offender before the Board of Probation and Parole or a hearing panel for the purpose of deciding whether to grant conditional release or parole, extending the date of conditional release, revoking parole or conditional release, or for any other purpose, such appearance may occur by video conference, rather than in person. Victims having the right to attend may testify either at the site where the board is conducting the video conference or at the institution where the offender is located.

Section 302.311 – Requires the Director of the Department of Revenue to assume legal representation for the DOR and appear in court for all driver's license suspension, revocation, and denial cases in lieu of local prosecutors.

Section 302.750 – Requires the Director of the Department of Revenue to appear in circuit courts for chemical refusals committed in CMV appeals.

Section 409.5-508 – Creates the crime of criminal securities fraud.

Section 565.081 – Expands the crime of assault of a law enforcement officer in the first degree to include probation and parole officers.

Section 575.150 – Expands the crime of resisting or interfering with an arrest, detention, or stop to include arrests on warrants issued for probation or parole warrants and arrests on capias warrants or bench warrants issued by federal, state, or municipal judges. The penalty is increased from a D felony to a C felony.

Section 578.255 – Prohibits possession of alcohol beverage vaporizers.

Section 595.030 – Increases the maximum per week wages to be paid from the Crime Victims' Compensation Fund from \$200 to \$400 per week.

Section 650.470 – Creates the Reverend Nathaniel Cole Memorial Pursuit Reduction Grant Fund, which can be used for grants made by the Department of Public Safety to urban police departments to provide 50% matching funds to police departments that purchase real-time tagging and tracking pursuit management systems.

FISCAL DESCRIPTION (continued)

HA 3 – Sections 195.202 and 568.045 – The proposal establishes Hope’s Law, which changes the laws regarding the crime of endangering the welfare of a child in the first degree. In addition, any person violating the provisions of Chapter 195, RSMo, regarding the possession or control of a controlled substance, except 35 grams or less of marijuana, in the presence of or in a residence where a person younger than 17 years of age resides will be guilty of a class B felony.

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

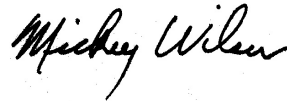
SOURCES OF INFORMATION

Office of the Attorney General
Office of Administration
 – Administrative Hearing Commission
Office of State Courts Administrator
Department of Transportation
Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety
 – Director’s Office
 – Missouri State Highway Patrol
Department of Conservation
Office of Prosecution Services
Office of the State Public Defender
City of Kansas City
Boone County Sheriff’s Department
Springfield Police Department

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NOT RESPONDING

**State Treasurer's Office
Jackson County Sheriff's Department
St. Louis County Police Department
Columbia Police Department
Kansas City Police Department
St. Louis Metropolitan Police Department**



Mickey Wilson, CPA
Director
April 8, 2009