

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0468-06
Bill No.: SCS for HCS for HB 62
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies; Drugs and Controlled Substances
Type: Original
Date: May 1, 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 \$994,374)	(More than \$834,928)	(More than \$844,601)
Total Estimated Net Effect on General Revenue Fund	(More than \$994,374)	(More than \$834,928)	(More than \$844,601)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 16 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	5	5	5
Total Estimated Net Effect on FTE	5	5	5

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	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Coordinating Board for Higher Education, Office of Administration – Administrative Hearing Commission, Department of Natural Resources, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Social Services, Department of Conservation, Missouri Ethics Commission, State Auditor’s Office, Missouri Senate, State Treasurer’s Office, University of Missouri, Metropolitan Community College of Kansas City, Missouri State University, Missouri Western State University, City of Kansas City, and the Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (Perfected HCS for HB 62, LR # 0468-05), officials from the **Department of Transportation** assumed the proposal would have no fiscal impact on their agency.

In response to a previous version of the proposal (HCS for HB 62, LR # 0468-05), officials from the **Office of the Governor** assumed the proposal would have no fiscal impact on their agency.

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 Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

ASSUMPTION (continued)

Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Department of Corrections (DOC)** assume the provisions in several sections 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.

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.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services** assume the proposal would have no measurable fiscal impact the Office of Prosecution Services or county prosecutors.

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.

In response to a previous version of the proposal (Perfected HCS for HB 62, LR # 0468-05), officials from the **Office of the State Public Defender (SPD)** assumed 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.

Officials from the **Missouri Southern State University** assume the proposal would result in result in minimal fiscal to their agency.

Oversight assumes Missouri Southern State University could absorb any minimal fiscal impact resulting from the proposal within existing resources.

ASSUMPTION (continued)

Section 43.540 – Qualified Entity Screening Requests

Officials from the **Department of Elementary and Secondary Education (DESE)** assume Section 43.540.2(2) would require a new process to be developed to record, collect, and maintain the signed waiver.

DESE assumes the provisions in Section 43.540.2(3) would apply to the “open record” check that currently costs \$9 and is paid by the district. DESE estimates costs of \$60,000 to \$75,000 per year that would be passed along to districts and colleges.

ASSUMPTION (continued)

DESE assumes the provisions in Section 43.540.2(8) would also result in increased costs. DESE currently does 50,000 or more fingerprints per year. The expense of answering phones, pulling records, copying and mailing, and the manpower to perform these requirements would be significant. DESE would require an additional phone line, mailing costs of at least \$12,500, photocopying expenses, envelopes, paper, etc.

In summary, to carry out the requirements of this section, DESE assumes they would require 1.5 FTE Administrative Assistant (each at \$31,560 per year) and related expenses. DESE assumes the total cost to be approximately \$117,000 in FY 2010 and \$128,000 in subsequent years.

Oversight assumes any costs incurred as a result of collecting a signed waiver would be minimal. Oversight assumes the qualified entity could absorb these minimal costs within existing resources. Oversight assumes the signed waiver would be forwarded to the Missouri State Highway Patrol with the completed fingerprint card.

Oversight assumes the fee required in 43.540.2(3) is currently collected by the qualified entity and could be paid by the applicant. Therefore, Oversight has reflected no fiscal impact to school districts.

Oversight assumes the qualified entity could absorb the cost of notifying, in writing, the person of his or her right to obtain a copy of a background screening report and of the person’s right to challenge the accuracy and the completeness of the report. Oversight assumes the notification would be provided to the individual by the qualifying entity at the time the individual provides the completed fingerprint card.

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)

In response to a previous version of the proposal (Perfecting HCS for HB 62, LR # 0468-05), officials from the **Office of Prosecution Services (OPS)** assumed 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.

Sections 479.260 and 488.5032 – Court Costs

In response to a similar proposal from the current session (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.

Section 650.055 – Expand DNA Profiling System

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSHP)** assume the proposed legislation would expand the DNA profiling system by requiring any person 17 years of age or older who is arrested for a felony under Chapters 565, 566, and 569, RSMo, to provide a biological sample for the purpose of DNA profiling analysis. These chapters cover the offenses for the most violent crimes and burglaries.

The MSHP's Crime Laboratory Division estimates that the proposed legislation could result in the collection of an additional 42,823 DNA samples. This equates to approximately 13,233 more samples than the unit's present capacity of 50,000 samples per year. To properly implement this proposal, the unit would need one additional FTE, some equipment, and additional funding for collection kits, reagents, and consumables.

ASSUMPTION (continued)

MSHP estimates are based on the MSHP UCR 2007 arrest statistics and the CLD 2007 offender sample intake. The UCR statistics collects data based on 18 years of age; therefore, the effect of changing the arrest to 17 years of age cannot be determined. The number of samples received in 2007 from convicted offenders under chapters 565, 566, and 569 were subtracted from the number of arrests made in 2007. This subtraction is believed to prevent duplication in sample count.

FTE needs and cost calculations are based on the unit's present processing capacity and operational costs. The unit's sample processing capability of 50,000 samples/year was subtracted from the total samples projected under this proposal.

These two adjustments result in an expectation of additional samples each year. The fiscal note is for the FTE Laboratory Evidence Technician (at \$25,944 per year), equipment, and funding needed to process the samples.

The cost of the collection kit is currently \$31.20		
Cost to process sample DNA (13,223 x \$31.20)	\$412,558	(Recurring)
1 Laboratory Evidence Technician (\$1,081 x 24)	\$25,944	(Recurring)
To receive, accept, track, and store all samples; data entry; maintain equipment and supplies		
Equipment/Maintenance/Accreditation		
Instrumentation/Equipment (see attachment for breakdown)	\$204,300	(One Time)
Equipment maintenance (see attachment for breakdown)	\$18,500	(Recurring)
The MSHP's Information Systems Division would utilize outside consultants to create the coding necessary to modify the MSHP's criminal history database.		
40 consultant hours at \$82 per hour (\$82 x 40)	\$3,280	(One Time)
Storage for increased data volume	\$2,000	(One Time)

In summary, MSHP estimates the total cost of the proposal to be approximately \$680,000 in FY 10 and approximately \$480,000 in subsequent years.

ASSUMPTION (continued)

In response to a similar proposal from the current session (HCS for HB 152, LR # 0344-02), officials from the **Boone County Sheriff's Department** assumed they would incur additional costs as a result of the proposed legislation. Officials estimate 5 minutes per individual sample collection and \$1.27 in officer salary based on 5 minutes of the mid-point hourly pay rate, multiplied by the number of qualifying felony arrests per year. Officials state there are hundreds, if not thousands when adding burglary arrests, of felony arrests under Chapters 565, 566, and 569 made annually in Boone County. Officials did not quantify the annual costs of the proposal.

Oversight assumes local law enforcement agencies would incur increased costs as a result of the proposed legislation. The law enforcement agencies and/or jail facilities would be required to collect biological samples on all persons 17 years of age or older who are arrested for felony offenses under chapter 565 or 566, RSMo. Oversight assumes the statewide cost to local law enforcement agencies could exceed \$100,000 per fiscal year.

Section 650.470 – Reverend Nathaniel Cole Memorial Reduction Grant Program

Officials from the **Department of Public Safety – Director's Office (DPS)** assume 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.

Officials from the Department of Agriculture, Joint Committee on Legislative Research, Missouri House of Representatives, Office of the Lieutenant Governor, Buchanan County Sheriff's Department, 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	(\$14,340)	(\$7,423)	(\$7,646)
<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 – Missouri State Highway Patrol</u>			
Personal Services	(\$22,269)	(\$27,524)	(\$28,350)
Fringe Benefits	(\$13,733)	(\$16,974)	(\$17,483)
Equipment and Expense	(\$226,080)	(\$19,055)	(\$19,627)
DNA Collection Kits	(\$412,558)	(\$412,558)	(\$412,558)
Storage Facilities	(\$2,000)	\$0	\$0
<u>Total Costs – MSHP</u>	<u>(\$676,640)</u>	<u>(\$476,111)</u>	<u>(\$478,018)</u>
FTE Change – MSHP	1 FTE	1 FTE	1 FTE
 <u>Costs – Department of Public Safety – Director’s Office (DPS) (650.470)</u>			
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 \$994,374)</u>	<u>(More than \$834,928)</u>	<u>(More than \$844,601)</u>
 Estimated Net FTE Change for General Revenue Fund	 5 FTE	 5 FTE	 5 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
LOCAL GOVERNMENT			
<u>Savings</u> – County prosecutors Reduced cases (302.311)	Unknown	Unknown	Unknown
<u>Costs</u> – Local Law Enforcement Agencies DNA sample collection	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>(More than \$100,000) to Unknown</u>	<u>(More than \$100,000) to Unknown</u>	<u>(More than \$100,000) to 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 modifies various crime prevention laws:

Section 43.540 – Requires qualified entities that provide services to children, the elderly, or disabled persons to register with the Highway Patrol before submitting requests for screening. New requirements for qualified entities include, requiring screening requests to be voluntary and conform with federal and state law, submitting a completed fingerprint card with a signed waiver, providing the necessary fee, and requiring the employee to provide the names of other qualified entities that have previously requested screening of him or her. The national criminal history data shall only be available to qualified entities to screen employees or volunteers applying with the entities. The highway patrol shall not be required to make determinations regarding whether a person's record indicates the person's fitness for employment. The qualified entity must notify in writing the person being screened of his or her right to obtain a copy of the screening report and his or her right to challenge its accuracy. A qualified entity is not liable for damages for failing, in the exercise of just ordinary care, to obtain the criminal history record information of an employee or volunteer. The state shall be liable for damages for providing the information only in accordance with the terms of Sections 537.600 & 537.610, RSMo.

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.

FISCAL DESCRIPTION (continued)

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 650.055 – The proposed legislation expands the DNA profiling system by requiring any person 17 years of age or older who is arrested for a felony under Chapter 565 or 566, RSMo, or for the offenses of burglary in the first degree (Section 569.160), or burglary in the second degree (Section 569.170) to provide a biological sample upon booking at a county jail or detention facility for the purpose of DNA profiling analysis.

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.

Sections 577.023 and 577.029 of the proposal contain an Emergency Clause, and would be in full force and effect upon the proposal's passage and approval.

The legislation may be federally mandated. The federal Adam Walsh act requires registered sex offenders to submit DNA samples.

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

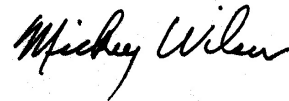
SOURCES OF INFORMATION

Office of the Attorney General
Coordinating Board for Higher Education
Office of Administration
 – Administrative Hearing Commission
Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Transportation
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
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
Missouri Ethics Commission
Office of Prosecution Services
Office of the State Auditor
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
State Treasurer’s Office
University of Missouri
Metropolitan Community College of Kansas City
Missouri Southern State University
Missouri State University
Missouri Western State University
City of Kansas City
Boone County Sheriff’s Department
Springfield Police Department

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NOT RESPONDING

**Department of Agriculture
Joint Committee on Legislative Research
Missouri House of Representatives
Office of the Lieutenant Governor
Buchanan County Sheriff's Department
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
May 1, 2009