

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0517-03  
Bill No.: Perfected SCS for SBs 36 & 112  
Subject: Crimes and Punishment; Children and Minors; Prisons and Jails; Department of Corrections  
Type: Original  
Date: February 11, 2009

Bill Summary: The proposal modifies provisions relating to sexual offenses against children.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(More than \$100,000)</b>	<b>(More than \$100,000)</b>	<b>(More than \$100,000)</b>

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

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

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 proposal would prohibit felony sexual offenders whose victim was less than seventeen (17) years of age from being allowed to participate in the one hundred twenty-day “shock incarceration program” within the Department of Corrections. If this bill passed, it is likely the Sex Offender Assessment Unit (SOAU) at Farmington Correctional Center would close down. The SOAU provides a specialized assessment for the courts that will not be available if offenders cannot be referred to the SOAU. A recidivism analysis of offenders released to probation after completing the SOAU indicates that recidivism rates are lower than for offenders sentenced to straight probation and to offenders sentenced to prison. This may result in increased recidivism rates if offenders could not be referred to the SOAU.

In FY08, DOC had 31 offenders enter the 120-day program who, if this bill were passed into law, would either be placed on probation or the court would require them to serve term sentences. The felony range of these classes is from a class D felony up through a class B felony and also includes unclassified felonies. Using an average time served for offenders who served a term sentence based upon the same MO charge code, the additional offenders who may now come to prison is as follows: 31 in FY10, 62 in FY11, 93 in FY12, 103 in FY13 and 107 in FY14 and each year following.

Currently, the DOC cannot predict the number of new commitments which may result from the modification 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 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).

ASSUMPTION (continued)

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 **Office of Prosecution Services (OPS)** assume the proposal will have no measurable fiscal impact on the OPS. The potential fiscal impact on prosecuting attorneys is unknown at this time. The elimination of the option of sentencing certain offenders pursuant to Section 559.115 may result in lower numbers of guilty pleas in these cases. This effect may be particularly severe in instances of the disposition of class C or D felony charges brought under Chapter 566.

**Oversight** assumes the Office of Prosecution Services (OPS) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the OPS would be reflected in future budget requests.

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.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs (509.115)	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(More than \$100,000)</u></b>	<b><u>(More than \$100,000)</u></b>	<b><u>(More than \$100,000)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<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 prohibits any person convicted of a felony sexual offense under Chapter 566, RSMo, against a victim less than seventeen years of age, from being allowed to participate in the one hundred twenty day “shock incarceration program” in the Department of Corrections and being granted probation upon completion. Currently, only persons convicted of certain unclassified and class A felony sexual offenses against children are prohibited from participating in the program and being granted probation upon completion. (Section 509.115)

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

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SOURCES OF INFORMATION

Office of State Courts Administrator  
Department of Corrections  
Office of Prosecution Services  
Office of the State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, slightly slanted style.

Mickey Wilson, CPA  
Director  
February 11, 2009