

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0946-04
Bill No.: Truly Agreed To and Finally Passed SS for HCS for HB 481
Subject: Courts; Judicial Proceedings
Type: Original
Date: June 4, 2009

Bill Summary: The proposal revises various sections relating to courts and judicial procedures, with penalty provisions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown) to \$223,406	(\$192,987 to Unknown)	(\$835,181 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown) to \$223,406	(\$192,987 to Unknown)	\$835,181

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Criminal Records	(\$40,800)	\$0	\$0
Technology	\$58,625	\$166,750	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$17,825	\$166,750	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 15 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	1	1	1
Total Estimated Net Effect on FTE	1	1	1

- 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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration, Department of Transportation, Department of Insurance, Financial Institutions, and Professional Registration, Department of Mental Health, Department of Corrections, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Conservation, Office of the State Public Defender, City of Springfield, City of Centralia, City of Raytown, St. Louis County, Cass County, St. Charles County, Columbia Police Department, Springfield Police Department, Missouri Southern State University, Metropolitan Community College of Kansas City, Missouri State University, Missouri Western State University, University of Central Missouri**, and the **University of Missouri** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed within existing resources. AGO may need to request additional staff to handle the increase in workload if multiple cases arise from the proposal.

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

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 – Administrative Rules Division (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.

ASSUMPTION (continued)

Section 173.270 – Tuition and Fee Waiver for Certain Foster Youth or Former Foster Youth

Officials at the **Coordinating Board for Higher Education (CBH)** assume the CBH is unable to estimate the fiscal impact of the tuition and fee waiver that this bill would create because of several unknown factors:

- The number of students who would seek to take advantage of the program initially;
- The number of such students who would ultimately enter a college or university;
- The number of such students who would ultimately meet the criteria set forth in the bill;
- Participants' persistence rates;
- Institutions future tuition rates; and
- The distribution of students among institutions (i.e., how many students would attend a relatively low-cost institution, how many would attend a relatively high-cost institution, etc.).

The CBH does estimate, however, that it would require 1.0 FTE Program Specialist (at \$28,596 per year) to administer the program. The CBH's grants and scholarships staff is very small and already working at or above capacity. Requiring that staff to perform additional duties without adding additional staff would likely have a negative impact on other state financial aid programs, such as Access Missouri and Bright Flight.

The CBH's estimate of fiscal impact assumes that it would hire a program specialist to perform the duties associated with this program, and that the program specialist's starting salary would be at the low end of the UPC range.

CBH estimates the total cost of the proposal to be approximately \$45,000 to Unknown per fiscal year.

Oversight has adjusted Coordinating Board for Higher Education's equipment expenditure to remove the desk, as an FTE would require a desk or systems furniture.

ASSUMPTION (continued)

Sections 208.040 and 208.055 – Assignment of Child Support for Temporary Assistance Recipients

Officials from the **Department of Social Services (DOS)** assume sections 208.040 and 208.055 make changes to state law regarding the assignment of child support for Temporary Assistance recipients. These changes will bring Missouri's assignment law into compliance with changes made in federal law by the Deficit Reduction Act of 2005. The change in federal law eliminates the assignment of past-due support for families receiving Temporary Assistance, but continues to require the assignment of amounts that accrue while the family receives assistance. The Act requires states to make this change effective October 1, 2009.

Although pre-assistance arrearages will no longer be assigned to the state, DOS does not expect this assignment change to reduce the amount of support collected and retained by the state for assigned debts.

Sections 452.305, 452.310, 452.312, 452.343, 452.430, 454.500 and 509.520 – Social Security Numbers in Petitions and Orders

Officials from the **Department of Social Services (DOS) – Family Support Division** assume sections 452.305, 452.310, 452.312, 452.343, 452.430, 454.500 and 509.520 remove requirements for the Social Security numbers and other identifying information of the parties to be recorded in the related petitions and orders. Section 509.520 instead provides that Social Security numbers and other identifying information of the parties will be provided to the court in a confidential case filing sheet, which shall not be subject to public inspection. DOS finds that these changes would allow DOS to maintain compliance with 42 USC, section 666(a)(13)(B), which requires that the Social Security number of any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter.

Section 452.430 of the bill provides that any pleadings, other than the interlocutory or final judgment, in a dissolution of marriage or legal separation filed before August 28, 2009, shall be subject to inspection only by the parties or an attorney of record or upon order of the court for good cause shown or by the division when services are being provided by the division under section 454.400, RSMo. The division assumes this section will allow division staff to request and receive from the courts, copies of pleadings needed in cases where services are being provided under 454.400, RSMo.

ASSUMPTION (continued)

Effective August 28, 2009, this bill, at subsection 509.520.1, would require that all pleadings, attachments, or exhibits, filed with the court in any case, as well as any judgments issued by the court, not include the full Social Security number of any party or child who is the subject to an order of custody or support. The bill also prohibits the inclusion of the full credit card number or other financial account number of any party in all such documents. In lieu of the full number, the last four digits of the number shall be included in all such documents. Additionally, subsection 452.343 and 454.500 of this bill specifically require the inclusion of only the last four digits of the Social Security number for orders issued pursuant to sections 454.470, 454.475, or 454.500, RSMo, while requiring that the full Social Security numbers of the parties to be provided and retained in the manner required by section 509.520. These changes will require the division to revise forms filed with the court to include only the last four digits of the Social Security number. Programming costs to make changes in the division's automated system will need to be provided by OA/ITSD. When it is necessary to file a document with the court where the full Social Security number is or was previously required on the document, division staff and staff working under cooperative agreements with the division would need to manually redact the Social Security number before filing such documents with the court. The division believes it can implement these changes with existing staff.

Subsection 509.520.2 of the bill requires that contemporaneously with the filing of every petition pleading for dissolution of marriage, legal separation, motion for modification, action to establish paternity, and petition or motion for support or custody of a minor child, the filing party shall file a confidential case filing sheet with the court which provides the name and address of the current employer and the Social Security numbers for the movant and respondent and the names, dates of birth, and Social Security numbers of any children subject to the action. Division staff or staff working under cooperative agreement with the division would need to complete the necessary filing sheet in applicable actions where the division is the filing party. The division believes it can implement this change with existing staff.

Subsection 509.520.3 of the bill requires that contemporaneously with the filing of every responsive pleading petition for dissolution of marriage, legal separation, motion for modification, action to establish paternity, and petition or motion for support or custody of minor child, the responding party shall file a confidential case filing sheet with the court which provides the name and address of the current employer and the Social Security numbers for the movant and respondent and the names, dates of birth, and Social Security numbers of any children subject to the action. Division staff or staff working under cooperative agreement with the division would need to complete the necessary filing sheet in applicable actions where the division is the responding party. The division believes it can implement this change with existing staff.

ASSUMPTION (continued)

Subsection 509.520.7 of the bill provides that the division may receive information from the confidential case filing sheet, without court order, when the division is acting under the authority of 454, RSMo.

The division assumes the changes made in this bill do not eliminate requirements set forth in section 454.412 for circuit clerks to provide data elements required for the state case registry and, therefore, does not affect the division's ability to comply with 42 USC, section 654A.

Section 452.455 – Past-Due Child Support Balances

Officials from the **Department of Social Services (DOS)** assume the proposal removes the requirements for DOS to ascertain past-due child support balances and disburse bond payments in child custody proceedings where the petitioner owes past-due support in excess of \$10,000. DOS expects no impact as a result of this change.

Section 473.743 – Public Administrator Serve as Trustees

Officials from **St. Louis County** assume the proposal will require an additional workload for the Public Administrator's Office without additional staff. This provision will also increase the potential exposure to liability for the county.

Oversight assumes St. Louis County could absorb any increased costs resulting from the proposal within existing resources.

Section 475.375 – Removal of Disqualification to Purchase Firearm

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSH)** state their Information Systems Division does not currently enter information into the National Instant Criminal Background Check System (NICS). To do so will require 480 hours of consultant work at \$85 per hour for a total of \$40,800 (480 x 85).

ASSUMPTION (continued)

Various Sections – Corporations and LLC Filings

Officials from the **Office of the Secretary of State (SOS)** assume the proposal will allow corporations to change the due date of their corporate registration report; it will allow corporations to elect to file their corporate registration report biennially; it will reduce the fee for LLCs organizing online; it will extend the amount of time a corporation has from thirty days to ninety days before the SOS is required to administratively dissolve a corporation for failure to file their registration report; it will allow limited partnerships and limited liability companies to re-instate if they are expired for duration of the entity; and it limits the corporate name reservation for a non-profit corporation to 180 days.

SOS estimates the fiscal impact of the proposal as follows:

Reduction of online filing fees for LLCs: SOS assumes that 50% of the 30,000 LLCs formed each year will file online (15,000 x \$55).

Option to change the due date of the corporate registration report: SOS assumes that 30% of the 115,200 general business corporations will opt to change their due date; of those, 50% will change in FY 10 and 50% will change in FY 11.

Option for a biennial corporate registration report: SOS assumes that 50% of the 115,200 general business and 50% of the 36,000 non-profit corporations will elect to file biennially. Corporations formed in odd numbered years can opt biennial filing in an odd numbered filing year; corporations formed in even numbered years can opt biennial filing in an even numbered filing year. SOS assumes that 50% will opt to file biennially, with 75% of the general business and 55% of the non-profit filing online; the remainder will file paper reports. The change will occur over two fiscal years, with 76% of the general business corporations that change changing in FY 10 and 24% changing in FY 11. For non-profits, the first year change will occur in FY 11.

Expenses for FY 10 are for one time contract programming with the KB system vendor. FY 11 and FY 12 cost avoidance is in reduced postage and printing because of biennial filing.

There are just over 225,000 active limited liability companies and 16,000 limited partnerships registered with the SOS. On average, the SOS sends out approximately 360 expiration reminders every year. SOS assumes approximately 10 expired limited partnerships and limited liability companies will be expired and seek to reinstate.

ASSUMPTION (continued)

In summary, SOS estimates the fiscal impact to the General Revenue fund to be increased revenues of approximately \$225,000 in FY10, and losses of approximately \$150,000 in FY11 and \$790,000 in FY12. In addition, SOS assumes increased revenues to the Technology Fund of approximately \$60,000 in FY10 and \$170,000 in FY 11.

Section 1– Modification of Child Support

Officials from the **Department of Social Services (DOS)** assume Section 1 of the bill allows the court to award court costs and attorney fees to the state in cases where a party in a child support modification proceeding is represented by the state. DOS interprets this section to give DOS the authority to petition the court for court costs and reasonable attorney fees in modification proceedings where DOS is a party. DOS believes it currently has the authority to attempt to recover such costs in Title IV-D child support cases if done in accordance with section 454.425, RSMo; 42 USC, section 654(6); and 45 Code of Federal Regulations, 302.33(d). Since the bill does not require DOS to petition the court for an award of court costs and attorney fees, but only makes clear DOS's authority to petition for such an award, no fiscal impact is being included for this provision of the bill.

Officials from the City of Kansas City, City of St. Louis, Bi-State Development, Boone County Sheriff's Department, Buchanan County Sheriff's Department, Jackson County Sheriff's Department, Kansas City Police Department, and St. Louis Metropolitan Police Department did not respond to Oversight's request for fiscal impact.

The proposed legislation could directly affect Total State Revenue (TSR). TSR will increase in FY 10 because of corporations electing to pay an additional fee to change the due date of their corporate registration report and electing to file their report biennially rather than annually; this increase will offset the decrease in revenue associated with a reduction in the online filing fee for Limited Liability Companies (LLC). In FY 11 and FY 12 there will be a decrease in TSR because the reduction in filing fees for LLCs will exceed the increase in fees associated with biennial filing and the change of the corporate registration report due date.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Revenues</u> – Office of the Secretary of State			
Corporation/LLC/LP filing fees	\$223,406	\$0	\$0
<u>Savings</u> – Office of the Secretary of State			
Reduced mailers and postage	\$0	\$15,287	\$15,800
<u>Losses</u> – Office of the Secretary of State			
Corporation/LLC/LP filing fees	\$0	(\$162,856)	(\$804,200)
<u>Costs</u> – Coordinating Board for Higher Education (173.270)			
Personal Service	(\$24,545)	(\$30,337)	(\$31,248)
Fringe Benefits	(\$11,936)	(\$14,753)	(\$15,196)
Equipment and Expense	(\$6,583)	(\$328)	(\$337)
Scholarship Costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Total Costs</u> – CBH	<u>(\$43,064 to</u>	<u>(\$45,418 to</u>	<u>(\$46,781 to</u>
	<u>Unknown)</u>	<u>Unknown)</u>	<u>Unknown)</u>
FTE Change – CBH	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>(Unknown) to</u>	<u>(\$192,987 to</u>	<u>(\$835,181 to</u>
	<u>\$223,406</u>	<u>Unknown)</u>	<u>Unknown)</u>
Estimated Net FTE Change for General Revenue Fund			
	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2010 (10 Mo.)	FY 2011	FY 2012
 CRIMINAL RECORDS FUND			
<u>Costs</u> – Missouri State Highway Patrol (475.375)			
Consultant programming fees	<u>(\$40,800)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON CRIMINAL RECORDS FUND	<u>(\$40,800)</u>	<u>\$0</u>	<u>\$0</u>
 TECHNOLOGY FUND			
<u>Revenues</u> – Office of the Secretary of State			
Corporation/LLC/LP fees	\$196,125	\$166,750	\$0
<u>Costs</u> – Office of the Secretary of State			
Contract programming (one-time)	<u>(\$137,500)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON TECHNOLOGY FUND	<u>\$58,625</u>	<u>\$166,750</u>	<u>\$0</u>
 <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

This legislation could have a positive impact on small business. A small business organizing as a limited liability company can file online and save filing fees. The cost of changing the month a corporation's registration report will be more than offset in cost savings/avoidance by completing this requirement at the same time other business and tax filings are completed. A corporation electing to file its corporate registration report biennially rather than annually will presumably, over a two year period, expend one half the cost of preparing the report.

FISCAL DESCRIPTION

Section 173.270 – Tuition and Fee Waiver for Certain Foster Youth or Former Foster Youth

The proposal establishes a tuition and fee waiver program beginning with the 2010 fall term for incoming Missouri resident college freshmen who have been in foster or residential care at certain times. To be eligible, applicants must have graduated from high school or passed the general educational development (GED) test within the last three years. The student must apply for admission to and be accepted at a state institution of higher education within the time frame specified by the bill, apply for financial aid, request a determination of eligibility from the Coordinating Board for Higher Education, and complete at least 100 hours of community service or public internship within the 12-month period beginning September 1 during the year of the tuition and fee waiver. Waivers will be awarded annually, subject to appropriations, for up to four years of undergraduate study and may only be used after other sources of financial aid intended for tuition and fees are exhausted.

Section 473.743 – Public Administrator Serve as Trustees

Allows public administrators to serve as trustees when appointed by the circuit court or probate division.

Section 475.375 – Removal of Disqualification to Purchase Firearm

The proposed legislation authorizes a petition process for an individual over the age of eighteen who has been judged incompetent to purchase, possess, or transfer a firearm when the individual no longer suffers from the condition that resulted in the individual's incapacity.

FISCAL DESCRIPTION (continued)

Various Sections – Corporations and LLC Filings

Beginning January 1, 2010, the proposal allows a corporation to file a corporate registration report on a biennial basis and to change the month of its corporate registration report by designating the desired month and paying an additional \$20 fee. Corporations incorporated in an even-numbered year may only file a report in an even-numbered year, and corporations incorporated in an odd-numbered year may only file a report in odd-numbered years. The fee for filing the biennial report will be \$80 if filed in a written format and \$30 if in an electronic format. Any corporation filing a biennial report must maintain the registration for two years, but may choose to file an annual registration in subsequent years.

The Secretary of State is authorized to charge a \$45 fee for a corporate filing of the original articles of organization in an electronic format.

Currently, the Secretary of State may commence a proceeding to dissolve a corporation if it fails to deliver its corporate registration report to the Secretary of State within 30 days after it is due. The bill changes the deadline to within 90 days.

The proposal allows the Secretary of State to administratively cancel the articles of organization of limited liability companies and limited liability partnerships if the period of duration on the articles expires and the company or partnership does not amend the articles in a timely manner. The Secretary of State may rescind a cancellation under certain circumstances.

Sections 1– Modification of Child Support

Allows the court to award court costs and attorney fees to the state in cases where a party in a child support modification proceeding is represented by the state.

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

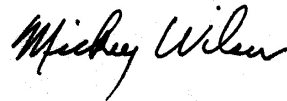
SOURCES OF INFORMATION

Office of the Attorney General
Coordinating Board for Higher Education
Office of Administration
Office of State Courts Administrator
Department of Transportation
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Conservation
Office of Prosecution Services
Office of the State Public Defender
Office of the State Treasurer
City of Springfield
City of Centralia
City of Raytown
St. Louis County
Cass County
St. Charles County
St. Louis County
Columbia Police Department
Springfield Police Department
Missouri Southern State University
Metropolitan Community College of Kansas City
Missouri State University
Missouri Western State University
University of Central Missouri
University of Missouri

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NOT RESPONDING

**City of Kansas City
City of St. Louis
Bi-State Development
Boone County Sheriff's Department
Buchanan County Sheriff's Department
Jackson County Sheriff's Department
Kansas City Police Department
St. Louis Metropolitan Police Department**



Mickey Wilson, CPA
Director
June 4, 2009