

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4453-11
Bill No.: HCS for HB 1695
Subject: Alcohol; Motor Vehicles; Licenses - Driver's
Type: Original
Date: March 11, 2010

Bill Summary: This proposal revises laws relating to driving while intoxicated.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Up to \$536,899 or More)	(Up to \$581,564 or More)	(Up to \$582,809 or More)
Total Estimated Net Effect on General Revenue Fund	(Up to \$536,899 or More)	(Up to \$581,564 or More)	(Up to \$582,809 or More)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Highway Fund	(\$159,040)	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	(\$159,040)	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1FTE

- 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 2011	FY 2012	FY 2013
Local Political Subdivisions	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, Department of Health and Senior Services, and the Department of Mental Health** state this proposed legislation would have no fiscal impact on their respective agencies.

Officials from the **Office of the Governor** anticipate there should be no added cost to the Governor's Office as a result of this proposal.

Officials from the **Department of Public Safety - Office of the Director** assume any costs to their agency associated with this proposal can be absorbed with existing resources.

Officials from the **Office of Prosecution Services** assume there will be no measurable fiscal impact to their agency.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. 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 fiscal note to the SOS for Administrative Rules is less than \$2,500.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

§478.001 & §478.007 - DWI Docket

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation allows a circuit court to establish a DWI docket or court to provide an alternative for the judicial system to dispose of cases which stem from driving while intoxicated. This docket or court may operate in conjunction with a drug court. Since the legislation is permissive, CTS has no way of knowing how many courts would create the programs. Although unable to provide an estimate at this time, CTS assumes the cost would exceed \$100,000.

Officials from **Jackson County** assume that county municipal courts in St Louis County, St Charles County, and Jackson County are not included in this provision (§478.001.2) and that the

ASSUMPTION (continued)

negative fiscal impact for Jackson County is estimated to be \$750,000 per year.

§479.020.8 - Municipal Court Judges Training

CTS assumes the proposed legislation proposes each municipal judge shall receive adequate instruction on the laws related to intoxication-related traffic offenses as §577.023. A one-day municipal judge training provided in six regions across the state would cost approximately \$15,500.

Oversight assumes the state-wide training would be necessary in FY 11. In subsequent years, **Oversight** assumes training could be held at one site for new municipal judges that are not licensed to practice law.

§479.020.8 - Record Retention

CTS assumes the proposal would require courts to retain all records pertaining to intoxication-related offense convictions for not less than fifty years. Although unable to provide an estimate at this time, CTS assumes the required cost to provide storage of these documents would exceed \$100,000.

§479.170 and §577.005

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** state that development costs to modify the Computerized Criminal History (CCH) system are estimated to be 400 hours at the current contract rate of \$82 per hour for a cost of \$32,800 (400 hours x \$82). The CCH estimate would include the following tasks: AFIS to CCH interface enhancement, CCH application enhancements, CCH database enhancements, CCH to DWITS interface, DWITS database enhancements, Missouri uniform law enforcement system (MULES) to CCH and DWITS transactions, and CCH reporting and inquires.

§479.170.3 and §577.023.16

MHP reports that an additional \$100,000 for Morpho software modifications will be needed for the Livescan component. Livescans are the electronic means in which fingerprints are submitted to the central repository. To provide the data and presentation needed as indicated in §478.007, programming changes would be required.

ASSUMPTION (continued)

One-Time Expenditures	
Consultant Fees (320 hours @ \$82/hr)	\$ 26,240
Consultant Fees (CCH System)	\$ 32,800
Morpho Software Modifications	\$100,000
Total One-Time Costs	\$159,040
Recurring Expenditures (Starting with Year Four)	
Annual Server Maintenance	\$ 600

§479.170.6 - Municipal Court Reporting Requirements

Officials from **Kansas City, Missouri** assume this proposed legislation may have a negative fiscal impact on the City of Kansas City, Missouri, because of the requirement that municipal courts produce a report on the management of cases involving alcohol-related offenses. The report will be made available to the public upon request. Because the court management system in Kansas City Municipal Court is old and limited, it cannot produce the requested report and so Kansas City would need to employ someone to manually go through every intoxication-related case.

§577.005.3 - Accountability Reports

Officials from MHP responded that their Information Systems Division assumes that new accountability reports of alcohol-related arrests, charges, and dispositions will be required per this section. These development costs are estimated to be 320 hours at the current contract rate of \$82 per hour for a cost of \$26,240 (320 hours x \$82).

§577.023.7 & §577.023.18 - Transfer of cases from municipal court to circuit court

Officials from the **Department of Corrections (DOC)** assume that transferring DWI cases from municipal to state court for prior offenders will cause a fiscal impact for the DOC. These offenders would now be supervised or incarcerated by the DOC. Additional treatment sources

ASSUMPTION (continued)

could also be needed to meet the growing number of referrals.

Currently, the DOC cannot predict the number of new commitments which may result from the creation 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 proposed legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY09 average of \$16.04 per offender, per day, or an annual cost of \$5,855 per inmate) or through supervision provided by the Board of Probation and Parole (FY09 average of \$3.71 per offender, per day or an annual cost of \$1,354 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. It is estimated that potential costs will be in excess of \$100,000 per year.

Officials from the **Office of State Public Defender (SPD)** assume the proposed legislation would require additional cases to be moved from Municipal courts to Circuit Courts. Based upon the seriousness of the charges, SPD believes that most multiple prior DWI cases are already being heard in Circuit Court. Any additional cases, where the defendant is indigent, would be an additional burden to the Public Defender System.

Officials from SPD state that in FY 2009, the State Public Defender System provided representation in 3,677 state Driving While Intoxicated cases and 5,413 Driving While Revoked cases. If these numbers increase by just 10%, the State Public Defender would require funds to contract out an additional 900 cases. At an average cost of \$375 per case, the additional costs would be \$337,500.

For fiscal note purposes only, since the number of cases to be transferred to Circuit Court is unknown, **Oversight** will assume costs to be: (Up to \$281,250) in FY 11 and (Up to \$337,500) in FY 12 and FY 13.

§577.010.3 - Increased Penalty For BAC Of .15 or More

According to officials from DOC, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. It is estimated that potential costs will be in excess of \$100,000 per year.

ASSUMPTION (continued)

§577.023.17 - Driving Record Notations

Officials from the **Department of Revenue (DOR)** provided the following assumptions regarding this proposal and stated that their agency would need to do the following:

- DOR will key all alcohol-related SIS convictions. DOR does not currently add SIS convictions to all driver records, except for commercial violations. The volume of SIS convictions received in 2009 was 13,448. This equates to 1121 per month or the average of 53 per day. This will increase telephone calls because SIS convictions are not currently added to all driver records today.
- Requires a new conviction code for a DWI with the BAC level of .15 % or more.
- Requires a new conviction code for BAC with the BAC level of .15% or more.
- Requires the Alcohol Influence Report (AIR) to be revised to show the increased penalty for BAC level of .15% or more.
- Requires the revocation notice for refusals to be revised to show the increase in revocation and SR-22 time frames.
- The current forms will need to be destroyed and new forms will be mailed to all law enforcement agencies prior to implementation of the law. Approximately 200,000 new forms will need to be printed. Of that volume, 68,000+ will be kept at Central Stores and 131,200 of those will be mailed to 656 law enforcement agencies, including Highway Patrol (131,200\656 = 200 forms). Each form costs \$0.12. The postage to mail 200 forms to each law enforcement agency is \$5.05.

Expenses	Units	Unit Cost	Total Cost (FY 11)
Forms	200,000	\$0.12	\$24,000
Postage	656 Agencies	\$5.05	\$ 3,313
Envelopes	656 Agencies	\$0.04	\$ 26
Total Expense			\$27,339

ASSUMPTION (continued)

- Form changes in addition to changes to the AIR form
- Testing of MODL programs and new conviction codes
- Website and procedure changes
- Training of Staff

Based on the above assumptions, DOR will require the following FTE:

.25 Revenue Processing Tech to process additional convictions received. (53 convictions received per day)

.50 Revenue Processing Tech - One operator can process 100 calls per day. Given the addition of SIS convictions being added to the record, the Department assumes .50 FTE will be needed to answer the increase in phone calls. If the volume of calls exceeds 100 calls per day, an additional FTE may be requested through appropriations.

.25 Revenue Processing Tech to process additional correspondent requests.

DLB Internal Implementation of Law

1 - Management Analysis Specialist II
80 hours of testing @ \$22.94 = \$1,835.20

1 - Administrative Analyst
80 hours of testing @ \$16.88 = \$1,350.40

1 - Revenue Band Manager
40 hours @ \$25.21 = \$1,008.40

2 - Management Analysis Specialist I for forms and Internal Procedures development
40 hours @ \$20.13 = \$805.20 x 2 = \$1,610.40

1 - Administrative Analyst III for web page updates
10 hours @ \$21.79 = \$217.80

Total amount for implementation costs = **\$6,021**

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ASSUMPTION (continued)

Oversight assumes the internal implementation costs can be absorbed with existing resources.

OAIT Information Technology

DOR's response to a proposal similar to or identical to this one in a previous session indicated DOR planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's driver license systems, changes cannot be made without significant impact to DOR resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at \$2,120 based on 80 FTE hours.

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. **Oversight** assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

Officials from the **City of Centralia** assume this proposal does not appear to have a fiscal impact on their jurisdiction.

Officials from the **Boone County Sheriff's Department** assume no fiscal impact resulting from this proposed legislation.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE			
<u>Cost - Department of Revenue (§577.023.17)</u>			
Personal Services (1 FTE)	(\$21,784)	(\$26,926)	(\$27,733)
Fringe Benefits	(\$12,383)	(\$14,120)	(\$14,543)
Equipment and Expense	<u>(\$5,982)</u>	<u>(\$518)</u>	<u>(\$533)</u>
TOTAL COSTS DOR	(\$40,149)	(\$41,564)	(\$42,809)
<u>Cost - Office of State Public Defender -</u>			
Contract Counsel (§577.023.7 & 18)	(Up to 281,250)	(Up to \$337,500)	(Up to \$337,500)
<u>Cost - Department of Corrections -</u>			
Incarceration and/or Probation costs (§577.010.3, 577.023.7 & .18)	(Expected to exceed \$100,000)	(Expected to exceed \$100,000)	(Expected to exceed \$100,000)
<u>Cost - Office of State Courts Administrator</u>			
Establish DWI docket or court (§478.001 & §478.007)	\$0 or (Expected to exceed \$100,000)	\$0 or (Expected to exceed \$100,000)	\$0 or (Expected to exceed \$100,000)
Judge training (§479.020.8)	(\$15,500)	\$2,500	\$2,500
Record retention (§479.020.8)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)
TOTAL COSTS OSCA	(Could exceed \$115,500 or <u>\$215,500</u>)	(Could exceed \$102,500 or <u>\$202,500</u>)	(Could exceed \$115,500 or <u>\$202,500</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Up to \$536,899 or More)</u>	<u>(Up to \$581,564 or More)</u>	<u>(Up to \$582,809 or More)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FTE	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
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HIGHWAY FUND

Cost - Department of Public Safety - Missouri
 State Highway Patrol

Consultant Fees (§577.005.3)	(\$26,240)	\$0	\$0
Consultant Fees - CCH System (§479.170 & §577.005)	(\$32,800)	\$0	\$0
Software Modifications (§479.170.3 & §577.023.16)	<u>(\$100,000)</u>	<u>\$0</u>	<u>\$0</u>
TOTAL COSTS MHP	<u>(\$159,040)</u>	<u>\$0</u>	<u>\$0</u>

**ESTIMATED NET EFFECT ON
 HIGHWAY FUND**

<u>(\$159,040)</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
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LOCAL POLITICAL SUBDIVISIONS

Cost - Counties - DWI Docket (§478.001.2)	(Unknown)	(Unknown)	(Unknown)
Cost - Cities - Reporting requirements (§479.170.6)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

**ESTIMATED NET EFFECT ON
 LOCAL POLITICAL SUBDIVISIONS**

<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

This proposed legislation changes the laws regarding driving while intoxicated. In its main provisions with fiscal impact, the proposal:

§478.001 & §478.007 - DWI Docket

Allows any circuit court to establish a DWI docket to provide an alternative for the disposition of driving while intoxicated or driving with excessive blood alcohol content cases when the person operating a motor vehicle has a blood alcohol content (BAC) of at least .15 or the person has pled guilty to or has been found guilty of one or more intoxication-related traffic offenses.

§479.020.8 - Municipal Court Judges Training

Requires the course of instruction that all municipal judges must complete to include a review of state laws regarding intoxication-related offenses, jurisdictional issues related to those offenses, reporting requirements for courts, and required assessment for offenders under the Substance Abuse Traffic Offender Program (SATOP).

§479.020.8 - Record Retention

Circuit and municipal court clerks must retain all records pertaining to intoxication-related offense convictions for at least 50 years.

§479.170.6 - Reporting Requirements

Requires each municipal division of every circuit court to prepare a report every six months that includes the total number and disposition of every intoxication-related offense adjudicated, dismissed, or pending in its division and submit the report to the circuit court en banc for review and recommendations.

577.005.3 - Accountability Reports

Requires law enforcement agencies and prosecutors to adopt a policy to report information for all intoxication-related offenses to the central repository and to certify the adoption when applying for any grants administered by the Department of Public Safety. Beginning January 1, 2011, the Missouri State Highway Patrol must maintain regular accountability reports of alcohol-related arrests, charges, and dispositions based on the data submitted.

FISCAL DESCRIPTION (continued)

§577.010.3 - Increased Penalty For BAC Of .15 or More

Increases the penalty for a person guilty of a driving while intoxicated offense from a class B misdemeanor to a class A misdemeanor if the person had a BAC of .15 or more and specifies that no person who operated a motor vehicle with a BAC of .15 or more will be granted a suspended imposition of sentence;

§577.023.7 - Transfer of Cases to Circuit Court

Requires a municipal court to transfer a case to the appropriate circuit court after finding a person to be a persistent, aggravated, or chronic offender.

§577.023.16

Allows courts to search the central repository, DWITS, or the certified driving record maintained by the Department of Revenue for prior intoxication-related traffic offenses

§577.023.17 - Driving Record Notations at Department of Revenue

Requires any person who has been convicted of, pled guilty to, or has been found guilty of an intoxication-related traffic offense to have the record of the offense assessed against his or her driving record by the department director;

§577.023.18 - Circuit Court Jurisdiction

Specifies that the jurisdiction will be in state court for any intoxication-related traffic offense where:

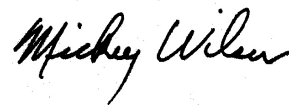
1. Any intoxication-related traffic offense where the person has previously been convicted of, pled guilty to, or has been found guilty of an intoxication-related traffic offense which caused bodily injury;
2. Any intoxication-related traffic offense where the person has, on two or more occasions, been convicted of, pled guilty to, or has been found guilty of an intoxication-related traffic offense; and
3. Any intoxication-related traffic offense resulting in death.

FISCAL DESCRIPTION (continued)

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 State Courts of Administrator
Department of Revenue
Department of Corrections
Department of Insurance, Financial Institutions and Professional Registration
Department of Health and Senior Services
Department of Public Safety
 Office of the Director
 Missouri State Highway Patrol
Department of Mental Health
Department of Transportation
Office of the Governor
Office of Prosecution Services
Office of State Public Defender
Office of Secretary of State
 Administrative Rules Division
Cities
 Kansas City
 Centralia
Counties
 Jackson
Local Law Enforcement
 Boone County Sheriff's Department



Mickey Wilson, CPA

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