

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4506-04
Bill No.: HCS for HBs 1692, 1209, 1405, 1499, 1535, & 1811
Subject: Property, Real and Personal; Licenses - Professional
Type: Original
Date: February 22, 2010

Bill Summary: Omnibus Judiciary Bill - Version #1.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Unknown less than \$70,836,848)	(Unknown less than \$72,678,069)	(Unknown less than \$74,830,510)
Total Estimated Net Effect on General Revenue Fund	(Unknown less than \$70,836,848)	(Unknown less than \$72,678,069)	(Unknown less than \$74,830,510)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Children's Trust	\$26,250	\$32,130	\$32,760
Endowed Cemetery	\$5,250	\$6,426	\$6,552
Missouri Public Health Services	\$26,250	\$32,130	\$32,760
Total Estimated Net Effect on <u>Other</u> State Funds	\$57,750	\$70,686	\$72,072

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 25 pages.

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

* Income and expenses exceed \$72.6 million annually and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	7.13 to 14.13	7.13 to 14.13	7.13 to 14.13
Federal	1.37	1.37	1.37
Total Estimated Net Effect on FTE	8.5 to 15.5	8.5 to 15.5	8.5 to 15.5

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 2011	FY 2012	FY 2013
Local Government	(Unknown exceeding \$100,000)	(Unknown exceeding \$100,000)	(Unknown exceeding \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture, Department of Economic Development (DED), DED - Public Service Commission, Department of Elementary and Secondary Education, Department of Higher Education, Department of Insurance, Financial Institutions, and Professional Registration, Missouri Consolidated Health Care Plan, Department of Mental Health, Department of Natural Resources, Department of Labor and Industrial Relations, Missouri Department of Transportation, Office of the Governor, Missouri Department of Conservation, Missouri Senate, Office of Prosecution Services, Missouri Ethics Commission, Office of State Auditor, Office of State Treasurer, State Tax Commission, City of Centralia, Parkway School District, Linn State Technical College, Lincoln University, Missouri State University, Missouri Western State College, University of Central Missouri, and Metropolitan Community College** assume the proposal will have no fiscal impact on their organizations.

In response to an earlier version of this proposal, officials from the **Office of Lieutenant Governor** assumed the proposal would have no fiscal impact on their organization.

Officials from the **Department of Public Safety** assume that any costs associated with this proposal can be absorbed with existing resources.

Officials from the **Office of Attorney General (AGO)** assume there could be a slight increase in cases based upon the proposed changes to section 452.430, if there is a state interest involved in the case. The proposal includes a fee for modification reviews in section 452.425 which might result in a decreased number of applications and consequently result in a decrease in the referrals to the AGO. The AGO assumes that any increase in caseload resulting from section 452.340 would be offset by fewer referrals resulting from section 452.425. Consequently, the AGO assumes that any potential costs resulting from the proposal could be absorbed with existing resources.

Officials from the **Office of Administration (COA) - Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if other similar bills pass, there are more cases, or the cases are more complex, there may be a fiscal impact.

Officials from the **COA - Division of Budget and Planning (BAP)** assume the proposal will have no fiscal impact on their organization. However, this proposal contains various provisions that will impact total state revenue including: 1) Expansion of licensure for real estate brokers, 2) establishment of child support fees, and 3) increase in the criminal case surcharge from \$2 to \$4 to benefit domestic violence shelters.

ASSUMPTION (continued)

The Department of Insurance, Financial Institutions, and Professional Registration should provide an estimate of possible increased costs and revenues to the state as a result of expanding the scope of licensure for real estate brokers. The Department of Social Services should provide an estimate of possible increased costs and revenues to the state as a result of establishing additional child support fees. The Office of State Courts Administrator should provide an estimate of possible increased costs and revenues to the state as a result of increasing the criminal case surcharge.

Officials from the **Department of Corrections (DOC)** state 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 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 operational cost through supervision provided by the Board of Probation and Parole (FY 09 average of \$3.71 per offender, per day, or an annual cost of \$1,354 per offender). The DOC assumes the narrow scope of the crime will not encompass a large number of offenders and the low felony status enhances the possibility of plea-bargaining or imposition of a probation sentence. The probability also exists that offenders would be charged with a similar, but more serious offense, or that sentences may run concurrent to one another. Therefore, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

In response to an earlier version of this proposal, officials from the **Office of State Public Defender (SPD)** stated, for the purpose of this proposed legislation, that they cannot assume existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with redefined crime of harassment and/or stalking or where indigent persons are charged with the proposed new crime of disturbing a worship service - a new class A misdemeanor for the first offense, the second offense would be a new class B misdemeanor, and the third and subsequent offenses would be a new class A misdemeanor.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the SPD system to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding 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 SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** assume authority is given to the Department of Revenue (DOR), Department of Health and Senior Services (DOH), Department of Insurance, Financial Institutions and Professional Registration (DIFP) (Real Estate Brokers), Department of Public Safety (DPS) (Division of Alcohol and Tobacco Control), and Department of Social Services (DSS) to promulgate rules. These rules will be printed in the Missouri Register and the Code of State Regulations. Based on experience with other departments, the rules, regulations, and forms issued by the DOR, DOH, DIFP (Real Estate Brokers), DPS (Division of Alcohol and Tobacco Control), and DOS could require as many as 44 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the Missouri Register is \$23; the estimated cost of a page in the Code of State Regulations is \$27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn. The SOS estimates FY 11 costs of \$2,706 [(44 pages X \$27) + (66 pages X \$23)].

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.

Officials from the **Office of State Courts Administrator (CTS)** state Section 211.447, RSMo, would allow fact by a jury for all issues in termination of parental rights actions under chapter 211, RSMo. While it is unknown how many jury trials will result from this legislative change, section 494.455, RSMo, requires a county to pay jurors six dollars per day, for every day he or she may actually serve as such, and seven cents for every mile he or she may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county or a city not within a county. In addition, if a county or city pays a juror at least \$12 a day, a "person shall receive an additional six dollars per day to be reimbursed by the state of Missouri so that the total compensation payable shall be at least eighteen dollars, plus mileage for each day that the person actually serves as a petit juror in a particular case; or for each day that a person actually serves as a grand juror during a term of a grand jury. The state shall reimburse the county for six dollars of the additional juror compensation provided by this subsection." There may be an increase in the amount of state reimbursement for jurors; however, we would not anticipate a fiscal impact in excess of \$100,000.

Section 476.083, RSMo, beginning August 28, 2010, would lower the inmate population required to allow for the appointment of a circuit court marshal. This proposal would lower the population required from 2,500 to 1,500. Under the new legislation, seven (7) additional circuits would be eligible to apply for a circuit court marshal: 5th, 12th, 13th, 14th, 25th, 33rd and 45th.

ASSUMPTION (continued)

The highest average sheriff's salary for these circuits is \$56,932. 90% of the average highest sheriff's salary is \$51,239. Therefore, the approximate cost for the 7 FTE is \$307,861, plus fringes.

The CTS estimates additional circuit court marshal costs of \$474,406 for FY 11; FY 12 costs of \$580,059; and FY 13 costs of \$597,461.

Oversight assumes the proposal would allow, but not require, the appointment of a circuit court marshal. Therefore, **Oversight** has ranged the fiscal impact from \$0 to approximately (\$460,000) in FY 11 and from \$0 to approximately (\$580,000) in subsequent years.

Officials from the **St. Louis County Circuit Court (Circuit Court)** assume the proposal will generate approximately \$50,000 in additional fees due to the increase in the criminal case surcharge from \$2 to \$4 (25,000 cases X \$2).

The Circuit Court anticipates an additional costs of \$160,200 in jury trial costs (30 trials per year averaging 4 days each at \$1,335 per day); \$190,000 (annual salary and benefits for two court attorneys to prosecute cases); \$90,000 in annual contractual cost for five (5) additional guardians ad litem; \$48,000 annual salary for termination of parental rights case coordinator; \$48,000 annual salary and benefits for one (1) additional Child Protective Services deputy juvenile officer; \$50,000 in transfer to domestic violence shelter and additional personnel costs for local Children's Division. Officials estimate total annual costs equal \$586,200.

Officials from **Jackson County** state that **Section 301.146** could result in additional deputy sheriffs being assigned to the home of each judge to provide additional security for the vehicles of judges as judges would have special license plates allowing for easy identification. The estimated impact of this section on Jackson County is \$3.2 million annually (40 deputies X \$80,000 salary and benefits).

Jackson County officials go on to state that **Section 211.447** provides for jury trial of termination of parental rights. This will dramatically increase costs to the counties. Due to the fact that Jackson County's courthouses and juvenile court facilities are not in the same location (several miles apart), there will be transportation costs for potential jurors and/or juveniles. Even if jurors were to report directly to the juvenile court facility, there are no jury deliberation rooms in that facility. Annual costs are estimated at \$3,000,000.

ASSUMPTION (continued)

Officials state that **Section 452.340** relates to child support trusts for children. It is assumed this will result in more litigation and more costs for the counties. The estimated annual cost for Jackson County is \$1,000,000.

Jackson County assumes there will be increase costs related to complaint calls and letters from custodial parents as a result of **section 454.425**. Annual costs are estimated to be \$100,000.

Jackson County officials also believe passage of **section 574.035** will result in additional annual costs of \$500,000 as it will require them to defend this like the sex offender registration act.

In total, Jackson County officials estimate the proposed legislation could result in additional costs of \$7.8 million annually.

Oversight assumes local governments will incur additional costs as a result of this legislation and is presenting costs as unknown exceeding \$100,000 annually.

Officials from the **Department of Revenue (DOR)** provide the following assumptions relating to this proposal:

Administrative Impact:

Taxation Division:

Sections 32.0456 and 301.145

Through conversation with the Office of State Courts Administrator (CTS), Missouri has 7 Supreme Court judges, 32 Appellate Court judges, and 335 Circuit/Associate Court judges. The CTS also advises that municipal court judges are empowered through the Circuit Court system and should be considered a qualifying judge. There are 540 Municipal court judges. In addition, it was indicated there are 35 federal judges that would fall into this proposal.

The DOR currently has a process in place for designated persons to include their information in the confidential records system. This proposal expands the parameters of who may be included in the confidential records system and, therefore, increases the DOR's workload of recording this information.

There are 949 total judges that would be available for this process. It is assumed that only 10% (95) of those judges will participate in FY 11. As knowledge and awareness increases, it is assumed that 50% (475) will participate in FY 12, and 75% (712) in FY 13. A revenue

ASSUMPTION (continued)

processing technician can process 5 confidential transactions per hour resulting in 19 hours of overtime in FY 11 at a cost of \$288; 98 hours of overtime in FY 12 at a cost of \$1,481; and 147 hours of overtime in FY 13 at a cost of \$2,221.

Section 306.532

Procedures will need to be revised by a Management Analyst Specialist I requiring 40 hours of overtime at a cost of \$805 in FY 11. The Application for Missouri Boat/Vessel or Outboard Motor Title and Registration (DOR-93) will need to be revised to include a new field labeled "Model Year-NEW." This will require 40 hours of overtime for a Management Analyst Specialist I, at a cost of \$805 in FY 11.

It is assumed that this proposal will increase the number of calls the DOR receives regarding marine title transactions by 5%. In FY 09 there were 7,624 phone calls received by the department regarding marine inquiries with an average of 953 phone calls per month (it is unknown how many of these calls were specifically about outboard motors). If the DOR assumes the calls will increase by 5%, this will result in 381 more phone calls per year. This will result in an FTE (Revenue Processing Tech I) needing 40 hrs of overtime (time and a half) to answer and research associated questions at a cost of \$402 in FY 11 (6 months), \$828 in FY 12, and \$852 in FY 13.

This proposal will potentially increase the number of marine outboard motor titles that error out and are rejected and cannot be processed due to the new information required. There were 189 outboard motor title transactions in FY 09. The DOR assumes 18 % of these were rejected (percentage of rejections based on percentage of overall rejections as the specific outboard motor number cannot be determined) and the same 5% increase as what was assumed for phone inquiries, this would result in a minimal increase to the department's processing of those rejects.

Information Technology (ITSD/DOR):

System Modifications:

The department's response to a proposal similar to or identical to this one in a previous session indicated the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's tax systems, changes cannot be made without significant impact to the department's resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at \$26,712 (calculated on 1008 FTE hours).

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ASSUMPTION (continued)

Section 306.532

Information Technology (IT) will need to create a new error type in the Marine General Registration System as well as a new data field titled "Model Year New" to record the information on the system. The marine title print program will need to be updated to include the field "Model Year New" and the Title and Registration Intranet Processing System (TRIPS) and the Key Entry Data System (KEDS) will need to be revised and updated to include the field "Model Year New."

Drivers License Bureau:

The proposal will require updating the restriction of information form and updating the procedures for acceptance and processing of restriction of information forms. It is estimated these updates will require a total of \$2,405 in additional overtime labor costs.

Total costs for the DOR are estimated to be \$31,427 for FY 11; \$2,322 for FY 12; and \$3,086 for FY 13.

Officials from the **Department of Health and Senior Services (DOH)** provide the following assumptions for this proposal:

Section 193.087:

Currently, the DOH, Bureau of Vital Records responds to approximately eight to 10 inquiries per day regarding access to a voluntary acknowledgment of paternity affidavit. This amount is expected to double from the current amount with an increase of approximately 2,520 requests annually (10 requests X average of 21 working days per month X 12 months in a year = 2,520). It is not anticipated that additional FTE resources would be needed, unless the demand exceeds expectations.

This proposal also requires the DOH to establish a fee, by rule, to charge for a copy of the voluntary acknowledgment of paternity affidavit. It is anticipated that this fee will be consistent with the search fee equal to the amount for a certification of a vital record established in Section 193.265, RSMo. Per Section 193.265, RSMo, the cost per birth certificate statement is \$15 to be distributed as follows: Children's Trust Fund - \$5; General Revenue - \$4; Endowed Cemetery Fund - \$1; and Missouri Public Health Services Fund (MOPHS) - \$5. The increase in revenue for FY 2011 is determined by 2,520 requests X \$15 per request = \$37,800 (\$31,500 for 10 months). Per 193.265, RSMo, this revenue will be split: GR = \$8,400; Children's Trust Fund = \$10,500; Endowed Cemetery Fund = \$2,100; and MOPHS = \$10,500.

ASSUMPTION (continued)

Section 193.128:

Currently, the Bureau of Vital Records responds to approximately 10 to 15 inquiries and requests daily regarding access to sealed adoption records. Inquiries and requests for copies of original birth certificates are expected to double from the current amount, with an increase of approximately 3,780 requests annually (15 X average of 21 working days per month X 12 months in a year = 3,780 requests). There is currently one Senior Office Support Assistant - Keyboarding (SOSA) working on adoptions. Two additional SOSAs would be needed to handle the additional requests, redact information from medical history forms, and assist in preliminary investigative activities in locating the birth mother. The additional SOSA positions would assist internal and external customers through written correspondence, in person, and over the telephone regarding adoptions, vital events, and related matters. The SOSAs would perform moderate to difficult clerical and technical functions involving a significant amount of public contact. Duties include researching requests related to obtaining original birth records; determining if the mother is living; locating contact information; processing documents related to births, including adoption decrees (domestic and foreign); legitimating affidavits; amending or creating new certificates as instructed by affidavits or court orders; processing delayed applications; performing manual and computer searches; updating the system mainframe; and issuing copies as requested.

The legislation would also require the Bureau of Vital Records, State Registrar, to develop a contact preference form and medical history form to provide to the birth parent(s), upon request.

The sealed records are stored at the State Archives. DOH currently does not have staff dedicated to drive to the State Archives to retrieve and return the sealed records. A one-half Office Support Assistant-Keyboard (OSA) is requested to perform these duties. DOH estimates three trips per week, utilizing an existing state vehicle, to the State Archives. The OSA will research the location of the records, locate and pull the appropriate sealed records at archives and return the previous sealed records to the proper location. The OSA may also assist the SOSA as time allows in processing applications and duplicating records.

A Clinical Social Work Specialist is requested to make phone calls to birth mothers to obtain her consent or denial to release the original birth record. These calls will be sensitive in nature, as the birth mother may not be aware that her birth child is trying to locate her. A high degree of tact, sensitivity, discretion and specialized training will be necessary to perform these duties.

Standard expense and equipment costs are included for additional staff. In addition, approximately \$1,663 would be needed for postage (3,780 X \$0.44 per envelope).

ASSUMPTION (continued)

Per Section 193.128.3 of the proposed legislation, the State Registrar may impose a fee for issuance of an uncertified copy of an original birth certificate. Per Section 193.265, RSMo, the cost per birth certificate is \$15 to be distributed as follows: Children's Trust Fund - \$5; General Revenue - \$4; Endowed Cemetery Fund - \$1; and MOPHS - \$5. The increase in revenue for FY 11 is determined by 3,780 requests X \$15 per request, for a total of \$56,700 (\$47,250 for 10 months). Per 193.265, RSMo, this revenue will be split: GR = \$12,600; Children's Trust Fund = \$15,750; Endowed Cemetery Fund = \$3,150; and MOPHS = \$15,750.

The DOH estimates net FY 11 costs to the General Revenue Fund of \$156,492; net FY 12 costs of \$167,534; and net FY 13 costs of \$172,827.

Oversight assumes the DOH would not need rental space for 3.5 FTE.

Officials from the **Department of Social Services (DOS) - Children's Division (CD)** provide the following assumptions for this proposal:

Section 193.125, 193.128 193.132 and 193.255 - Adoption Records

This proposed legislation will not have a fiscal impact on the Children's Division, but policy may need to be updated.

Section 210.145, Section 210.150, and Section 210.152 - Child Abuse Investigations and Alleged Perpetrator Appeal Process

The Children's Division anticipates some minimal changes to policy and to the FACES system to accommodate the following changes in time-frames:

- From 30 days to 45 working days to complete an investigation;
- From 60 days to 30 days in which an alleged perpetrator may request an appeal.

Changes to section 210.150 and 210.152 to limit the time-frame on pending criminal charges as well as the reduction of the time frame in which an alleged perpetrator may request an appeal from sixty to thirty days would expedite the appeal process allowing alleged perpetrators timelier due process as well as placing perpetrators who present a risk to children on the central registry as soon as possible.

The Children's Division does not anticipate a significant fiscal impact.

ASSUMPTION (continued)

Section 211.442 to 211.487 - Jury Trials for TPRs

The CD believes the intent of this version of the proposal was to remove Section 211.442 to 211.487 on Jury Trials for Termination of Parental Rights (TPRs), in which case these sections would not have a fiscal impact. However sections 211.447, 211.462, and 211.477 were not removed, which requires the Children's Division to notify a parent or legal guardian of the right to a jury trial in termination of parental rights proceedings; therefore, the assumptions for the fiscal impact is based on the assumption that the parent or legal guardian are notified of the right to a jury trial in termination of parental rights proceedings.

These assumptions are based on the Division of Legal Services estimation that jury trials would result in the Children's Division spending approximately twice the legal fees currently spent on termination of parental rights cases.

There were 256 TPR cases completed for children in alternative care in FY 09. In FY 09 the Children's Division spent \$2,281,164 in legal fees for TPR cases. Assuming half of those cases would involve demands for jury trials would mean approximately 128 cases of our annual TPR cases would involve demands for jury trial and the costs of those trials would double. This would result in an increase of \$1,140,582 in legal fees for TPR cases. The CD would also anticipate an increase in staff time spent in court and initially would require a revision in policy and training. Ultimately this would result in an increase in the time taken for some children to achieve permanency.

Section 455.501 - Adult Orders of Protection

This proposal lowers the age in which an individual can file an adult order of protection from age 18 to age 17. The Children's Division does not anticipate a fiscal impact.

Officials from the **DOS - Family Support Division (FSD)** provide the following assumptions for this proposal:

Section 193.087:

Because the amendment to 193.087, RSMo, specifically includes state and federal child support agencies as entities subject to a fee for copies of the affidavit acknowledging paternity, the FSD assumes it will have to pay a fee each time it requests a copy of an affidavit from the Department of Health and Senior Services (DOH). The FSD routinely makes such requests to DOH because the federal government requires Title IV-D state child support agencies to obtain and maintain in

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ASSUMPTION (continued)

the case record a copy of these affidavits as documentation of paternity establishment for children born out of wedlock. Since the amount of the fee is unknown, the FSD is unable to determine the cost that may be incurred as a result of this change. The division estimates the cost to be unknown less than \$100,000.

Section 452.340:

Proposed amendments to section 452.340, RSMo, would cause Missouri to be noncompliant with Title IV-D State Plan requirements regarding Family Support Payment Center trusteeship for support payments, resulting in a total loss of federal funding, including incentives. The amount for federal fiscal year 2009 was approximately \$69.5 million. Any loss of federal funding would have to be replaced by General Revenue. A federally approved IV-D State Plan is also a requirement to receive the TANF block grant, so a disapproved IV-D State Plan could also jeopardize federal TANF funding.

Oversight received documentation via DOS that the U.S. Department of Health and Human Services (DHHS) has conducted a cursory review of HCS for HB 1692, et.al., specifically section 452.340(6). Based on DHHS' review, "Missouri would likely be found out of conformance with the IV-D State plan requirements in at least two areas."

As a result, **Oversight** is presenting a loss of federal funding of \$69.5 million for FY 11; \$71.585 million for FY 12; and \$73,732,550 for FY 13. The loss of these funds will be replaced with General Revenue Funds.

Sections 454.425 and 454.548, RSMo:

State FY 2011:

In its State FY 11 budget request, FSD requested funding of \$137,112 in one-time costs related to a one-time mailing of fee notifications and system changes necessary to implement the child support fees proposed in this bill (\$46,618 would be funded with Child Support Enforcement Collections Funding; and \$90,494 with federal funding).

To meet federal notification requirements, the FSD would need to mail notices to never-assistance recipients of services. The division expects it will need to mail approximately 123,000 notices at a cost of \$0.36 per notice for a one-time cost of \$44,280. After the first year, notice to affected entities will be incorporated into existing agency forms/notices at no additional cost.

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ASSUMPTION (continued)

It is estimated it would take the Office of Administration's Information Technology (IT) staff 1,200 hours to make the necessary system changes to the Missouri Automated Child Support Systems (MACSS) to implement the fees for a one-time cost of \$92,832 (1,200 hours x \$77.36 hourly rate).

In addition, in FY 2011, the FSD estimates that approximately 3,573 cases would be subject to the review fee, resulting in \$214,380 in fee collections (\$72,889 state share). Approximately 4,113 cases would be subject to the modification fee. The division also estimates that 2,879 will

be subject to a fee of \$175 and 1,234 will be subject to a fee of \$350, resulting in \$935,725 in fee collections (\$318,147 state share). Approximately 19,243 cases would be subject to the federal income tax refund offset fee annually, resulting in \$481,075 in fee collections (\$163,566 state share). Expanding the annual \$10 annual payment processing fee to include IVD cases would result in an additional \$481,580 in fee collections annually (\$163,737 state share).

There is a potential total annual collection of fees of \$2,112,760 (\$718,339 state share). However, due to implementation and the Division's ability to collect the fees, the Division does not expect to collect the full amount in the first year. The FSD only anticipates collecting a little more than half of the fees in the first year. Therefore, in FY11, based on the following calculations, the Division believes of the fees collected, \$335,861 could be used to offset GR expenditures. In the FY 11 FSD Budget Request, there was a core cut of GR in the County Reimbursement core.

	State Share	Federal Share	Total
Total potential fees collected	\$718,339	\$1,394,421	\$2,112,760
Less one-time implementation costs	\$ 46,618	\$ 90,494	\$ 137,112
Net fees/savings amount	\$671,721	\$1,303,927	\$1,975,648
First year fees (net)	\$335,861	\$651,965	\$987,825
Total first year fees anticipated	\$382,479	\$742,458	\$1,124,937

State FY 2012:

In FY 12, the division estimates that approximately 4,288 cases would be subject to the review fee, resulting in \$257,280 in fee collections (\$87,475 state share). Approximately 4,936 cases would be subject to the modification fee. The division estimates that 3,455 will be subject to a fee of \$175 and 1,481 will be subject to a fee of \$350, resulting in \$1,122,925 in fee collections (\$381,795 state share). Approximately 20,256 cases would be subject to the federal income tax refund offset fee annually, resulting in \$506,400 in fee collections (\$172,176 state share). Expanding the annual \$10 annual payment processing fee to include IVD cases would result in

ASSUMPTION (continued)

an additional \$577,910 in fee collections annually (\$196,489 state share). To meet federal notification requirements, the division would need to mail notices to never-assistance recipients of services. The division expects it will need to mail approximately 123,000 notices at a cost of \$0.36 per notice for a one-time cost of \$44,280 (\$15,055 state share). After the first year, notice to affected entities will be incorporated into existing agency forms/notices at no additional cost.

In FY 12, there is a potential total annual collection of fees of \$2,464,515 (\$837,935 state share).

Officials from the **DOS - Division of Legal Services (DLS)** assume the proposal would make it significantly more expensive for the DOS- Children's Division (CD) and the Circuit Juvenile Officers to achieve permanency for children in care. A jury trial is more time consuming and labor intensive than a bench trial. Under federal and state law, the CD is required to file termination of parental rights (TPR) petitions (with a few exceptions) in cases where children are in care if the child has been in care for 15 of the most recent 22 months. (See §211.447 RSMo. 42 C.F.R. §1356.21(I)). Failure to comply with this time frame jeopardizes federal financial participation in Missouri's foster care system under Title IV-E of the Social Security Act, and may subject Missouri to significant financial disallowances imposed by the Federal Government. In 2004 a Federal Audit of Missouri's Title IV-E program identified the lack of sufficient attorneys to handle TPR cases as one of the deficiencies of Missouri's ability to comply with the federal legal requirement to file timely TPR cases. Jury trials require more trial preparation to ensure that the witnesses and evidence are ready for a jury comprised of individuals who are not familiar with the rules of evidence. Additional funding for more attorneys and support staff, as well as additional training in handling jury trials in TPR cases, will be required if TPRs were tried by a jury.

Authorizing jury trials in termination of parental rights cases will substantially delay the processing of TPR cases. This will increase the time that children remain in foster care and will increase expenses to the Children's Division. This will make it difficult for the state to achieve timely placement and possibly jeopardize the receipt of federal funds. A jury trial normally takes longer to try than a bench trial. A realistic estimate is two times longer, once you factor in jury selection, sequestration and deliberation. The typical TPR case involves at least five attorneys (attorney for Juvenile Officer, Attorney for Children's Division, Attorney for Natural Mother, Attorney for Natural Father, and Attorney for Guardian ad litem); thus, the jury selection process could conceivably take multiple days. It is anticipated that attorneys' fees for GAL services and court appointed attorneys would escalate dramatically as a result of the increased costs associated with additional trial preparation, jury selection, discovery, and use of expert witnesses. Additional time and expense would be expended on those cases that ended in a hung jury and, thus, had to be retried.

ASSUMPTION (continued)

Under current law in governing TPR cases, the DOS-CD is usually ordered to pay the attorney fees for the natural parents and the guardian ad litem. Historically, the typical attorneys' fee award against the Children's Division at the conclusion of a TPR case is approximately \$10,000 per lawyer case. However, if a TPR case went to jury, it is expected that the attorneys fees would double to approximately \$20,000 – \$40,000 per case, excluding any appellate issues that need to be resolved. Finally, given the additional time it takes to prepare for and try a jury trial, in all likelihood, this bill would increase the amount of time children spend in foster care and increase the maintenance costs of a child in foster care proportionately.

In 2009, DLS had an additional 109 cases which were not closed and carried forward into the new year. On average, DLS invests approximately 60 hours in preparing for and trying a TPR. Thus, with an average of 256 cases closed per year, DLS estimates that its attorneys currently spend approximately 15,360 hours per year on termination of parental rights cases. As previously mentioned, a jury trial is expected to require twice as much preparation and trial time.

If 128 TPR cases resulted in demands for jury trials, DLS attorneys are estimated to spend an additional 7,680 hours on an annual basis on TPR cases. Given current DLS caseloads, the present staff of DLS is insufficient to handle the additional hours. Assuming the typical DLS attorney's available work hours are 1,846 hours per year (40 hrs per week times 52 weeks per year, minus 120 hours for authorized annual leave, minus 10 hours per year for sick time, minus 104 hours for paid state holidays), DLS anticipates that DLS will need a minimum of 4 FTE attorneys (\$37,560 per year) with support staff (\$26,004 per year) to comply with the statute. If the bill passes and the additional FTE are not provided, the DLS anticipates that the State of Missouri and the DOS-CD will not be able to comply with the requirements of 211.447 RSMo and 42 C.F.R. §1356.21(I), thereby jeopardizing federal financial participation in DOS adoption and foster care programs.

Juvenile courts are well versed in topics that commonly arise during a termination proceeding (bonding assessments, play therapy, drug abuse, psychological problems, and the various disorders that frequently plague abused and neglected children). In a typical TPR case, the trial judge in the underlying juvenile case is the same judge who handles the TPR trial. That judge is already familiar with the evidence, which was adduced in the original hearing. In contrast, juries will not have any prior information in the case. They will not have any information regarding the reasons that the child(ren) were brought into care. In order to remedy this deficiency, TPR trials will have to be longer so that evidence which was already adduced will have to be adduced again to the jury. Children who are the victim of significant childhood trauma, including serious child physical and sexual abuse at the hands of their parents, will have to testify again in many cases as to the abuse/neglect to explain to the jury what happened to them. This will be very traumatic to

ASSUMPTION (continued)

many children and may traumatize them again. This will result in a significant increase in the time it will take to try TPR cases. In addition, juries will have to be educated about the details of the permanency planning process. These issues will require additional time and evidence. A jury trial frequently produces more grounds for appeal than a bench trial, causing further delay in a permanent placement for the children in Division custody and further increasing the costs of litigation.

Officials from the **Missouri House of Representatives** and **Missouri Lottery Commission** did not respond to our request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Income - DOH</u>			
Certified copy revenue	\$21,000	\$25,704	\$26,208
<u>Income - DOS-FSD</u>			
Fee income collected	<u>\$335,861</u>	<u>\$837,935</u>	<u>\$863,073</u>
Total <u>Income</u> - DOH and DOS	<u>\$356,861</u>	<u>\$863,639</u>	<u>\$889,281</u>
<u>Costs - DOH</u>			
Personal service costs (3.5 FTE)	(\$84,841)	(\$104,864)	(\$108,010)
Fringe benefits	(\$44,491)	(\$54,991)	(\$56,640)
Equipment and expenses	<u>(\$39,160)</u>	<u>(\$22,259)</u>	<u>(\$22,927)</u>
Total <u>Costs</u> - DOH	(\$168,492)	(\$182,114)	(\$187,577)
FTE Change - DOH	3.5 FTE	3.5 FTE	3.5 FTE
<u>Costs - CTS</u>			
Personal service costs (7 FTE)	\$0 to (\$307,861)	\$0 to (\$380,516)	\$0 to (\$391,932)
Fringe benefits	\$0 to (\$161,442)	\$0 to (\$199,543)	\$0 to (\$205,529)
Equipment and expense	\$0 to (\$5,103)	\$0	\$0
Increase in juror reimbursement	<u>\$0 to (Unknown</u>	<u>\$0 to (Unknown</u>	<u>\$0 to (Unknown</u>
	<u>less than</u>	<u>less than</u>	<u>less than</u>
	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>
Total <u>Costs</u> - CTS	<u>\$0 to (Less than</u>	<u>\$0 to (Less than</u>	<u>\$0 to (Less than</u>
	<u>\$574,406)</u>	<u>\$680,059)</u>	<u>\$697,461)</u>
FTE Change - CTS	0 to 7 FTE	0 to 7 FTE	0 to 7 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
(continued)			
<u>Costs - DOS-CD</u>			
Increase in legal fees for TPR cases	(\$690,053)	(\$828,063)	(\$828,063)
<u>Costs - DOS-FSD</u>			
Affidavit fees	(Unknown less than \$28,333)	(Unknown less than \$34,000)	(Unknown less than \$34,000)
Loss of Federal reimbursement	<u>(\$69,500,000)</u>	<u>(\$71,585,000)</u>	<u>(\$73,732,550)</u>
Total <u>Costs - DOS-FSD</u>	<u>(Unknown less than \$69,528,333)</u>	<u>(Unknown less than \$71,619,000)</u>	<u>(Unknown less than \$73,766,550)</u>
<u>Costs - DOS-DLS</u>			
Personal service costs (3.63 FTE)	(\$109,783)	(\$135,745)	(\$139,818)
Fringe benefits	(\$53,387)	(\$66,013)	(\$67,993)
Equipment and expenses	<u>(\$37,828)</u>	<u>(\$28,392)</u>	<u>(\$29,243)</u>
Total <u>Costs - DOS-DLS</u>	<u>(\$200,998)</u>	<u>(\$230,150)</u>	<u>(\$237,054)</u>
FTE Change - DOS-DLS	3.63 FTE	3.63 FTE	3.63 FTE
<u>Costs - DOR</u>			
Overtime labor costs	(\$4,705)	(\$2,309)	(\$3,073)
Programming and expenses	<u>(\$26,722)</u>	<u>(\$13)</u>	<u>(\$13)</u>
Total <u>Costs - DOR</u>	<u>(\$31,427)</u>	<u>(\$2,322)</u>	<u>(\$3,086)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown less than \$70,836,848)</u>	<u>(Unknown less than \$72,678,069)</u>	<u>(Unknown less than \$74,830,510)</u>
Estimated Net FTE Change for General Revenue Fund	7.13 to 14.13 FTE	7.13 to 14.13 FTE	7.13 to 14.13 FTE
CHILDREN'S TRUST FUND			
<u>Income - DOH</u>			
Certified copy revenue	<u>\$26,250</u>	<u>\$32,130</u>	<u>\$32,760</u>
ESTIMATED NET EFFECT ON CHILDREN'S TRUST FUND	<u>\$26,250</u>	<u>\$32,130</u>	<u>\$32,760</u>

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
ENDOWED CEMETERY FUND			
<u>Income - DOH</u>			
Certified copy revenue	<u>\$5,250</u>	<u>\$6,426</u>	<u>\$6,552</u>
ESTIMATED NET EFFECT ON ENDOWED CEMETERY FUND	<u>\$5,250</u>	<u>\$6,426</u>	<u>\$6,552</u>
MISSOURI PUBLIC HEALTH SERVICES FUND			
<u>Income - DOH</u>			
Certified copy revenue	<u>\$26,250</u>	<u>\$32,130</u>	<u>\$32,760</u>
ESTIMATED NET EFFECT ON MISSOURI PUBLIC HEALTH SERVICES FUND	<u>\$26,250</u>	<u>\$32,130</u>	<u>\$32,760</u>
FEDERAL FUNDS			
<u>Income - DOS-CD</u>			
Increase in program reimbursements for legal fees	\$260,433	\$312,519	\$312,519
<u>Income - DOS-DLS</u>			
Increase in program reimbursements	\$75,859	\$86,861	\$89,467
<u>Income - DOS-FSD</u>			
Increase in program reimbursements	Unknown less than \$55,000	Unknown less than \$66,000	Unknown less than \$66,000
Transfer-in - General Revenue	\$69,500,000	\$71,585,000	\$73,732,550
Fee income collected	<u>\$651,965</u>	<u>\$1,626,580</u>	<u>\$1,675,377</u>
Total <u>Income</u> - DOS-FSD	<u>Unknown less than \$70,206,965</u>	<u>Unknown less than \$73,277,580</u>	<u>Unknown less than \$75,473,927</u>
Total <u>Income</u> - DOS	<u>Unknown less than \$70,543,257</u>	<u>Unknown less than \$73,676,960</u>	<u>Unknown less than \$75,875,913</u>

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
FEDERAL FUNDS (continued)			
<u>Costs - DOS-CD</u>			
Increase in program costs	(\$260,433)	(\$312,519)	(\$312,519)
<u>Costs - DOS-FSD</u>			
Transfer-out - Reimburse Federal funds	(\$69,500,000)	(\$71,585,000)	(\$73,732,550)
Increase in program costs	<u>(Unknown less than \$55,000)</u>	<u>(Unknown less than \$66,000)</u>	<u>(Unknown less than \$66,000)</u>
Total <u>Costs</u> - DOS-FSD	<u>(Unknown less than \$69,555,000)</u>	<u>(Unknown less than \$71,651,000)</u>	<u>(Unknown less than \$73,798,550)</u>
<u>Costs - DOS-DLS</u>			
Personal service costs (1.37 FTE)	(\$41,433)	(\$51,232)	(\$52,769)
Fringe benefits	(\$20,149)	(\$24,914)	(\$25,661)
Equipment and expenses	<u>(\$14,277)</u>	<u>(\$10,715)</u>	<u>(\$11,037)</u>
Total <u>Costs</u> - DOS-DLS	<u>(\$75,859)</u>	<u>(\$86,861)</u>	<u>(\$89,467)</u>
FTE Change - DOS-DLS	1.37 FTE	1.37 FTE	1.37 FTE
Total <u>Costs</u> - DOS	<u>(Unknown less than \$69,891,292)</u>	<u>(Unknown less than \$72,050,380)</u>	<u>(Unknown less than \$74,200,536)</u>
<u>Loss - DOS</u>			
Reduction in reimbursements for fee income collected	<u>(\$651,965)</u>	<u>(\$1,626,580)</u>	<u>(\$1,675,377)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
LOCAL GOVERNMENTS - COUNTIES			
<u>Costs - Counties</u>			
Jury trial costs	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - COUNTIES			
	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</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 allows a circuit court to appoint an extra circuit court marshal if the average total inmate population in all facilities operated by the Department of Corrections located in the circuit is more than 1,500 during the previous two years. Currently, the court can appoint an extra marshal only when the total average inmate population over the two-year period is more than 2,500.

The proposed legislation provides that a parent may request by written demand to the juvenile court a jury trial for proceedings regarding involuntary termination of parental rights. A request for a jury trial shall be no later than 45 days following service of summons on the parent or guardian subject to the termination hearing. Failure to file the jury trial request within the 45-day period shall constitute a waiver of such right, unless a subsequent request is joined in by all parties.

This legislation modifies provisions regarding birth certificates and adoption records. The State Registrar shall develop and, upon a birth parent's request, provide both a contact preference and a medical history form to the birth parent. The contact preference form allows a birth parent to list his or her preference for contact by the adoptee. If a contact preference form is filed with the registrar, a medical history form shall also be so filed. Upon receipt of the forms, the State Registrar shall attach such forms to the original birth certificate of the adopted person.

FISCAL DESCRIPTION (continued)

This legislation allows for an adopted person, the adopted person's attorney, or the adopted person's descendants, if the adopted person is deceased, to obtain a copy of the adopted person's original birth certificate from the State Registrar upon written application and proof of identification. The adopted person shall be 18 years of age or older and born in Missouri. The adopted person shall also agree in writing to abide by the birth parent's contact preference, if such preference is included with the adopted person's original birth certificate. The State Registrar shall also provide a medical history form, if such form was completed by the birth parent.

The provisions of the legislation shall not apply to adoptions instituted or completed prior to August 28, 2010, except that a copy of the medical history form, which has had all identifying information redacted, shall be issued to such adopted person. For adoptions completed prior to August 28, 2010, the state registrar shall release the original birth certificate only if the birth mother is deceased. If the birth mother is not deceased, the state registrar shall, within three months of application by the adopted person, make reasonable efforts to contact the birth mother via telephone, personally and confidentially, to obtain the birth mother's written consent or denial to release the original birth certificate. If the birth mother could not be contacted, the adopted person may re-apply for a copy of the original birth certificate within one year from the end of the three-month period during which the attempted contact with the birth mother was previously made.

The proposal provides that the Department of Social Services, Family Support Division shall charge a fee in the amount of sixty dollars for requests that the division review a support order under subdivision (13) of subsection 2 of section 454.400 for the purpose of determining whether a modification to the support order is appropriate. The division shall not initiate a review until the requestor pays the review fee. After the division initiates a review, the fee is non-refundable, regardless of the outcome of the review. The division shall waive the review fee if the requestor has an individual gross monthly income of less than two hundred fifty percent of the federal poverty level based on a household size of one, if the requestor currently or formerly received assistance under a state program funded under Part A of Title IV of the federal Social Security Act or if the fee is otherwise prohibited by state or federal law.

The Family Services Division shall charge a fee for requests that the division modify a support order after the division has determined that a modification is appropriate and that such modification can be completed under this chapter. The division shall not initiate a modification until the requestor pays the modification fee. After the division initiates a modification, the fee is non-refundable, regardless of the outcome of the modification action. The division shall waive the modification fee if the requestor has an individual gross monthly income of less than two hundred fifty percent of the federal poverty level based on a household size of one, if the requestor currently or formerly received assistance under a state program funded under Part A of Title IV of the federal Social Security Act or if the fee is otherwise prohibited by state or federal law. When appropriate to charge a modification fee under this section, the modification fee shall

FISCAL DESCRIPTION (continued)

be in the amount of: (1) One hundred seventy-five dollars if the requestor has an individual gross monthly income equal to or greater than two hundred fifty percent of the federal poverty level but less than four hundred percent of the federal poverty level based on a household size of one; or (2) Three hundred fifty dollars if the requestor has an individual gross monthly income equal to or greater than four hundred percent of the federal poverty level based on a household size of one.

The Family Services Division shall charge a fee in the amount of twenty-five dollars for submitting past-due child and spousal support debts for collection through federal income tax refund offset. The fee shall be assessed only if the division collects support on a case through federal income tax refund offset. The fee shall be assessed each time a federal income tax intercept is distributed to a case receiving services under this chapter. The division shall waive the federal income tax refund offset fee if the obligee currently or formerly received assistance under a state program funded under Part A of Title IV of the federal Social Security Act or if the fee is otherwise prohibited by state or federal law.

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

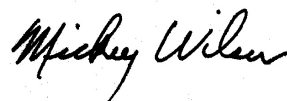
SOURCES OF INFORMATION

Office of Attorney General
Department of Agriculture
Office of Administration -
 Administrative Hearing Commission
 Division of Budget and Planning
Office of State Courts Administrator
Department of Economic Development -
 Public Service Commission
Department of Elementary and Secondary Education
Department of Higher Education
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
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 -
 Children's Division
 Family Services Division
 Legal Services Division

SOURCES OF INFORMATION (continued)

Missouri Department of Transportation
Department of Public Safety -
 Director's Office
 Capitol Police
 Missouri State Water Patrol
 Division of Fire Safety
 State Emergency Management Agency
 Missouri Gaming Commission
 Missouri State Highway Patrol
Office of the Governor
Missouri Consolidated Health Care Plan
Missouri Department of Conservation
Missouri Ethics Commission
Office of Lieutenant Governor
Office of Prosecution Services
Office of State Auditor
Missouri Senate
Office of Secretary of State
Office of State Public Defender
Office of State Treasurer
State Tax Commission
St. Louis County Circuit Court
Jackson County
City of Centralia
Parkway School District
Linn State Technical College
Missouri State University
Missouri Western State College
University of Central Missouri
Metropolitan Community College

NOT RESPONDING: Missouri Lottery and Missouri House of Representatives



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Mickey Wilson, CPA
Director
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