

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4557-07  
Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SB 628  
Subject: Courts; Fees; Prisons and Jails  
Type: Original  
Date: June 6, 2012

Bill Summary: This proposal relates to the judiciary.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	Unknown - could exceed \$100,000	Unknown - could exceed \$100,000	Unknown - could exceed \$100,000
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>Unknown - could exceed \$100,000</b>	<b>Unknown - could exceed \$100,000</b>	<b>Unknown - could exceed \$100,000</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Statewide Court Automation*	\$0	\$0	\$0
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Offsetting income, expenses and transfers in the Statewide Court Automation Fund net to zero in each fiscal year.

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 13 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Federal Funds	\$5,000	\$5,000	\$5,000
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$5,000</b>	<b>\$5,000</b>	<b>\$5,000</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Local Government</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Missouri Senate, Missouri House of Representatives, Department of Insurance, Financial Institutions and Professional Registration, Department of Revenue, Office of the State Public Defender, Department of Health and Senior Services, Office of the State Auditor, Department of Economic Development, Department of Mental Health,** and the **Office of Prosecution Services** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is an increased review of rules in later years.

#### Section 21.771 (Joint Committee on Child Abuse and Neglect);

Officials from the **Department of Social Services** state it is assumed that the Children's Division would be available and assist the committee in its study and analysis of the state child abuse and neglect reporting and investigation system. However, the Children's Division does not anticipate an immediate fiscal or programmatic impact. In the long term it is unknown what recommendations this committee will generate and what impact these recommendations may have in the future.

#### Section 67.2010 (Greene County may establish a municipal court);

Officials from the **Office of State Courts Administrator (CTS)** state this section would allow Greene County to establish a municipal court to prosecute ordinance violations. The court would have jurisdiction over county ordinances and municipal ordinances if the municipality contracts with the court to prosecute municipal violations.

CTS states ordinance violations are the least time consuming in terms of clerical workload, so they would not anticipate a significant decrease in the workload of the circuit court. When a county creates an ordinance court, the \$15 clerk fee is paid to the county and is no longer allocated 80% to the state general revenue and 20% to the county.

On balance, CTS anticipates a reduction in fine revenues to the schools, crime victims' compensation, law enforcement training and other earmarked funds, but no major cost or savings to the state as a result.

ASSUMPTION (continued)

**Oversight** assumes this part of the proposal is permissive and would have no fiscal impact to Greene County, unless the County Commission, at their discretion, would establish a county municipal court. The county would have the cost of staffing, maintaining, and administering the court. This proposal does not require first class counties to establish a county municipal court system. **Oversight** assumes no fiscal impact.

Section 195.222 and 195.223 (Cocaine);

Officials from the **Department of Corrections (DOC)** state this proposal changes the weights necessary for enhanced punishment of cocaine-based drugs. Crimes for drug trafficking in this proposal are punishable by up to class A felonies. Raising the minimum amount of drugs by eighteen (18) times the amount currently necessary in order to be charged with the existing crimes will reduce the amount of offenders sentenced to DOC. The potential amount of offenders cannot be estimated. A decrease in the commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

A decrease in supervision by the DOC, either through probation or incarceration, would result in decreased costs to the department, but the exact positive fiscal impact remains “Unknown” per each fiscal year.

Section 211.031 (Juvenile Traffic Violations);

Officials from **Department of Social Services** state based on DYS's response to an identical proposal in 2009 (HB 262, FN 656-01), there is no fiscal impact to the Department of Social Services. This bill could result in fewer cases adjudicated in juvenile court; i.e., traffic violations by juveniles age 15 to 15½. However, since DYS does not take custody of youth for non-felony traffic violations, no change is expected in the number of children committed to DYS care.

Section 452.374 (Termination of parental rights in rape cases);

Officials from **Department of Social Services** state this section does not impact the Family support Division's child support program. For any affected case, the agency will monitor the final disposition of the criminal proceeding and take appropriate action when the automatic stay is lifted.

ASSUMPTION (continued)

Section 456.8-808 (Trust protectors);

Officials from **Department of Social Services** state this section has a positive impact on their agency. The use of a trust protector has not been previously sanctioned by Missouri trust law. This section allows the use of a trust protector and defines the duties and responsibilities of a trust protector. The Department will now allow the use of a trust protector in special needs trust since their role, duties, and responsibilities are codified into Missouri trust law.

Section 476.055 (Statewide Court Automation extended);

Officials from the **Office of the State Courts Administrator** state this part of the proposed legislation would extend the Statewide Court Automation Fund until September 1, 2018. The fund is used for basic ongoing maintenance of the technological needs of the courts statewide and constitutes approximately 45 percent of the total court automation expenditures, with the rest coming from General Revenue. If the fund sunsets in September 2018, the judiciary would anticipate a budget request for General Revenue of approximately \$5 million and 34 FTE in fiscal 2019.

**Oversight** assumes the proposed legislation would replace the September 1, 2013 expiration date of the Statewide Court Automation Fund and the Statewide Court Automation Fund fees. The activity in the fund for the previous five fiscal years has been:

Statewide Court Automation Fund (0270)  
 from  
 Fund Activity Report

Fiscal Year	Beginning Balance	Receipts	Disbursements/ JVs	Transfers/IAB	Ending Balance
2011	\$514,035	\$5,207,903	( \$4,352,894)	(\$884,337)	\$484,708
2010	\$573,453	\$5,567,800	( \$4,510,796)	( \$1,116,422)	\$514,035
2009	\$744,534	\$5,895,702	( \$5,248,108)	(\$818,675)	\$573,453
2008	\$523,045	\$5,684,276	( \$4,176,715)	( \$1,286,071)	\$744,534
2007	\$573,954	\$5,334,765	( \$4,608,026)	(\$777,648)	\$523,045

**Oversight** assumes the proposal would result in continued revenues and costs to the Statewide Court Automation Fund in fiscal years 2014 through 2019. Based on the data from the past five fiscal years, Oversight assumes the proposal would result in average annual revenues of approximately \$5,500,000, costs of approximately (\$4,500,000), and transfers of approximately

ASSUMPTION (continued)

(\$1,000,000), resulting in a net zero impact to the Statewide Court Automation Fund each year. Oversight has reflected the initial impact of the proposal in FY 2014 (10 months) since the current expiration date is September 1, 2013 (FY 2014). Oversight also assumes the entire balance of the Statewide Court Automation Fund would have been expended by September 1, 2013 and the extension of this to 2018 would not have a fiscal impact.

Section 488.5375 (potential to recoup expenses from sexual offender cases);

Officials from the **Department of Public Safety - Missouri Highway Patrol - Division of Drug and Crime Control (DDCC)** states that during the preceding 27 months, the Computer Forensic Unit has examined computers or other devices associated with 29 sexual offender cases. Investigators spent 2,030 hours conducting these 29 examinations which comes to an average of 70 hours per case (2,030/29). This unit is currently staffed by two Sergeants and a Trooper and an average hourly salary was figured at \$28 per hour which equates to \$1,960 per case (70 x \$28). When the FY12 fringe benefit rate of 88.19% was included, the total amount per case was \$3,688 (\$1,960 + 88.19%). If the average number of cases per year (29/27 x 12) is multiple by the total fiscal impact amount per case, the fiscal impact per year is \$47,531. DDCC believes these numbers to be on the low end as an investigator was added to the unit as a result of the merger with the Water Patrol.

Officials from the **Department of Social Services (DOS)** state this provision allows a court to order a defendant to reimburse a state or local law enforcement agency for the costs incurred by such agency in the examination of any computer or electronic equipment that was used for a sexual offense creates the potential for revenue. However, in the absence of any specific provision to the contrary, any reimbursement collected by the state would likely be deposited into General Revenue. Therefore, there is no fiscal impact to the State Technical Assistance Team (STAT).

Section 513.653 (Audits of drug seizures);

Officials from the **Department of Public Safety - Missouri Highway Patrol** state they would save \$5,000 per year from the Federal Drug Seizure Fund because they would no longer be required to pay the annual cost of an independent audit.

In response to a similar proposal from this year (HB 1672), officials from **Springfield Police Department** stated the proposal would result in a cost savings of approximately \$1,060 (amount paid for the independent auditor) per year.

ASSUMPTION (continued)

Officials from the **Boone County Sheriff's Office** assume the proposal would not fiscally impact their agency.

**Oversight** will reflect an unknown savings to local political subdivisions from this part of the proposal since they are no longer required to pay for the independent audit of federal forfeitures.

Section 558.019 (Elimination of the requirement of the Sentencing Advisory Commission);

Officials from the **Department of Corrections** state this part of the proposal would eliminate the requirement of the Sentencing Advisory Commission (SAC) to establish and publish a system of recommended sentences. The research responsibilities of the commission with regard to measuring sentencing disparity and investigating alternative sentencing will remain.

The DOC incorporates the recommended sentences and the commission's risk assessment into the sentencing assessment reports that are requested by the courts. Elimination of the recommended sentences would have costs to the department associated with the required modification to the data systems that provide the sentencing assessment reports.

DOC is also unable to predict the impact of the changes on sentencing practices, therefore, the fiscal impact of this legislation on DOC is ""Unknown"" per each fiscal year.

In response to HB 257 in 2011, which abolished the Sentencing Advisory Commission, the Office of the State Courts Administrator assumed a savings of the one FTE that is currently assigned to the commission. This proposal does not abolish the commission, only reduces their tasks by eliminating the system of recommended sentences. **Oversight** assumes this will not reduce the need for the FTE assigned to the commission.

**Oversight** also assumes the DOC will be able to absorb any additional responsibilities that result from this proposal with existing resources.

Section 568.060 (Abuse or Neglect of a Child);

Officials from the **Department of Social Services** state the changes in the definition of the crime of abuse or neglect of a child are not expected to result in any fiscal or programmatic impact to the Children's Division. The Division's procedures for handling reports of child abuse and neglect and investigating those reports remain essentially the same.

ASSUMPTION (continued)

Various other Sections;

Officials from the **Department of Corrections** state there are several crimes in the remainder of this bill that are newly created or enhanced, all of which cumulatively have an ‘unknown’ fiscal impact per each fiscal year.

In summary, the fiscal impact for the Department of Corrections due to the passage of this bill is “Unknown” and cannot be determined whether the overall effect would be positive or negative.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>GENERAL REVENUE</b>			
<u>Revenue</u> - Department of Public Safety and Department of Social Services			
- court allowed to order a defendant to reimburse the state or local law enforcement agency for reasonable cost incurred in the examination of seized computers, cellular telephones and other devices. (Section 488.5375)	Unknown - less than \$100,000	Unknown - less than \$100,000	Unknown - less than \$100,000
<u>Savings</u> - Department of Corrections			
- Decrease in cocaine crimes (Sections 195.222 and 195.223)	Unknown - could exceed \$100,000	Unknown - could exceed \$100,000	Unknown - could exceed \$100,000
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b><u>Unknown - could exceed \$100,000</u></b>	<b><u>Unknown - could exceed \$100,000</u></b>	<b><u>Unknown - could exceed \$100,000</u></b>



<u>FISCAL IMPACT - State Government</u> (continued)	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>STATEWIDE COURT AUTOMATION FUND</b>			
<u>Revenues</u> – Office of State Courts Administrator			
Continued collection of state court automation fund fees (Section 476.055)	\$0	\$4,583,333	\$5,500,000
<u>Costs</u> – Office of State Courts Administrator			
Statewide court automation system (Section 476.055)	\$0	(\$3,750,000)	(\$4,500,000)
<u>Transfers</u> – Office of State Courts Administrator			
Net of transfers in, transfers out, and IAB transactions (Section 476.055)	<u>\$0</u>	<u>(\$833,333)</u>	<u>(\$1,000,000)</u>
<b>ESTIMATED NET EFFECT ON STATEWIDE COURT AUTOMATION FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>FEDERAL FUNDS</b>			
<u>Savings</u> - Missouri Highway Patrol			
No longer required to have an independent audit of forfeiture proceeds (Section 513.653)	<u>\$5,000</u>	<u>\$5,000</u>	<u>\$5,000</u>
<b>ESTIMATED NET EFFECT TO FEDERAL FUNDS</b>	<b><u>\$5,000</u></b>	<b><u>\$5,000</u></b>	<b><u>\$5,000</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
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**LOCAL POLITICAL SUBDIVISIONS**

<p><u>Income</u> - court allowed to order a defendant to reimburse the state or local law enforcement agency for reasonable cost incurred in the examination of seized computers, cellular telephones and other devices. (Section 488.5375)</p>	Unknown	Unknown	Unknown
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<p>Savings - Sheriffs and Police Departments - no longer required to have an independent audit performed on federal forfeitures (Section 513.653)</p>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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<b>ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>
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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 proposal modifies provisions relating to the judiciary.

**TRAFFICKING DRUGS**

Sections 195.222 & 195.223; HB 1894 (2012)

Currently, a person commits the crime of trafficking drugs in the first degree if he or she distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture, or produce more than 2 grams of crack. If the quantity involved is between 2 and 6 grams, the person must be sentenced to the authorized term of imprisonment for a Class A felony. If the quantity is 6 grams or more, the person will be ineligible for probation or parole. This act raises

RS:LR:OD

FISCAL DESCRIPTION (continued)

the quantity for a Class A felony sentence to between 8 and 24 grams. If the person has 24 grams or more, the person will be ineligible for probation or parole.

Currently, a person commits the crime of trafficking drugs in the second degree if he or she possesses or has under his or her control, purchases, or attempts to purchase or brings into this state more than 2 grams of crack. If the quantity involved is between 2 and 6 grams, the person will be guilty of a class B felony. If the quantity is 6 grams or more, the person will be guilty of a Class A felony. This act raises the quantity for a Class B felony sentence to between 8 and 24 grams. If the person has 24 grams or more, the person will be guilty of a Class A felony.

COURT AUTOMATION FUND

Section 476.055; HB 1460 (2012)

Currently, a court fee is collected and deposited into the Statewide Court Automation Fund. The Court Automation Committee may use moneys in the fund for court automation. Collection of the fee is set to expire on September 1, 2013. The Committee is to cease functions no later than September 1, 2015. Unexpended moneys remaining in the fund will be transferred to the general revenue fund on September 1, 2013.

This act extends collection of the court fee until September 1, 2018. Moneys left in the fund on that date will be transferred to the general revenue. The Committee shall cease functions on September 1, 2020.

COST FOR EXAMINING ELECTRONICS IN SEXUAL OFFENSE CASES

Section 488.5375; HB 1896 (2012)

This act allows courts to order a defendant, upon a plea of guilty or a finding of guilt for a felony sexual offense, to reimburse the state or local law enforcement agency for the reasonable costs incurred in the examination of certain seized electronic devices. The costs will be established by each law enforcement agency, but the court may reduce the costs if it determines them to be excessive.

FISCAL DESCRIPTION (continued)

FEDERAL SEIZURE PROCEEDS

Section 513.653; HB 1672 (2012)

Currently, a law enforcement agency involved in using the federal forfeiture system under federal law is required each fiscal year to acquire an independent audit of the federal seizures and proceeds therefrom and provide the audit to its governing body, the Department of Public Safety, and the Office of the State Auditor. This act removes the audit requirement and requires the law enforcement agency to file an annual report by January 31 regarding federal seizures and proceeds for the previous year with the department and the auditor's office.

UNCLAIMED SEIZED ELECTRONICS

Section 542.301; HB 1896 (2012)

This act specifies that computers, computer equipment, computer software and hardware, cellular telephones, or other devices capable of accessing the internet which are used by the owner or with the owner's consent as a means for committing felonies must be forfeited to the state. Such forfeited equipment that had been used in the acquisition, possession, or distribution of child pornography or obscene material may, upon a court order, be retained by the law enforcement agency and used in criminal investigations.

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

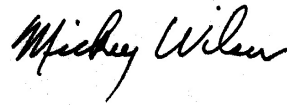
Missouri Senate  
Missouri House of Representatives  
Department of Social Services  
Department of Revenue  
Office of the State Courts Administrator  
Department of Economic Development  
Department of Health and Senior Services  
Office of the State Auditor  
Department of Public Safety  
Office of Prosecution Services

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SOURCES OF INFORMATION

Office of the State Public Defender  
Department of Corrections  
Department of Mental Health  
Attorney General's Office  
Department of Insurance, Financial Institutions and Professional Registration  
Boone County Sheriff  
Springfield Police Department

Mickey Wilson, CPA

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large, prominent "M" and "W".

Director  
June 6, 2012