

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1120-02
Bill No.: SB 331
Subject: Courts; Crimes and Punishment; Criminal Procedure; Law Enforcement Officers and Agencies; Victims of Crime
Type: Original
Date: April 2, 2013

Bill Summary: This proposal creates procedures for the collection of restitution through the office of the prosecuting or circuit attorney.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	(Unknown - could exceed \$100,000)	(Unknown - could exceed \$100,000)	(Unknown - could exceed \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Unknown - could exceed \$100,000)	(Unknown - could exceed \$100,000)	(Unknown - could exceed \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Missouri Office of Prosecution Services Fund	\$100,000	\$100,000	\$100,000
Total Estimated Net Effect on Other State Funds	\$100,000	\$100,000	\$100,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

- 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 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

* Additional income and expenses for local political subdivisions.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Office of Prosecution Services (MOPS)** did not respond to our request for fiscal impact for this bill. However, in response to a similar proposal from 2012 (HB 1382), MOPS stated the bill would have a positive fiscal impact on their office. The estimated MINIMAL annual impact could be \$41,420. However the impact could be greater.

MOPS attempted to survey all 115 counties (which includes the City of St. Louis) as to how many cases in FY2010 that restitution was ordered. It should be noted restitution did not include cases of bad checks. Fifty-seven (57) counties responded to the survey. Of those 57 counties, there were a total of 8,284 cases in which restitution was ordered.

Assuming that the other 58 counties all have similar numbers, fiscal impact could be \$83,565 to \$115,020. The theory to determine the fiscal impact of HB 254 on the Missouri Office of Prosecution Services was to survey all counties as to how many cases there were in FY 2010 that restitution was ordered, then, add the total number of cases and multiple times the proposed minimum \$5.00 fee.

The counties that responded to the survey included: Adair, Andrew, Atchison, Audrain, Barry, Bates, Buchanan, Callaway, Camden, Cape Girardeau, Cedar, Christian, Clay, Cole, Cooper, Dade, Dent, Franklin, Gasconade, Gentry, Greene, Grundy, Harrison, Henry, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Laclede, Livingston, Maries, Marion, Mercer, Miller, Newton, Oregon, Osage, Pemiscot, Pike, Platte, Randolph, Ray, Ripley, Saline, Shelby, St. Charles, St. Francois, St. Genevieve, St. Louis City, St. Louis County, Stone, Taney, Warren, Worth, Wright.

Based upon the estimate provided by MOPS, **Oversight** will assume an additional \$100,000 of restitution paid to the Missouri Office of Prosecution Services Fund annually.

Officials at the **Department of Corrections (DOC)** assume this proposal enhances the restitution statute to include not only tampering and stealing offenses, but for any offense the courts so choose. Once the court orders restitution, it is considered a mandate and the DOC is authorized to remove funding from the inmate's account (if it exists) while the defendant is incarcerated. Failure to pay mandated restitution may result in extension to the maximum term of parole which keeps the offender under supervision longer with Probation and Parole (P&P) or a revocation may mean time served in prison. Monitoring offender's restitution payment status would now be enhanced for P&P staff since the volume of restitution cases will increase.

ASSUMPTION (continued)

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY12 average of \$17.059 per offender, per day, or an annual cost of \$6,227 per inmate) or through supervision provided by the Board of Probation and Parole (FY12 average of \$4.960 per offender, per day, or an annual cost of \$1,810 per offender.)

In summary, passage of this bill has the potential for costs to the department and the exact fiscal impact is unknown per each year.

Oversight assumes the cost anticipated by the DOC could exceed \$100,000 each year.

Oversight will assume the proceeds collected into the local Administrative Handling Cost Fund would be used in the same year by prosecuting attorneys and circuit attorneys.

Officials at the **Department of Revenue, Office of State Courts Administrator** and the **Office of the State Auditor** each assume there is no fiscal impact to their organization from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE			
<u>Costs - Department of Corrections</u>			
Potential longer incarceration, potential extension to the maximum term of parole (longer supervision) and additional monitoring of offender's restitution payment status due to removal of limiting restitution to only tampering and/or stealing offenses (§ 559.105)	(Unknown - could exceed <u>\$100,000</u>)	(Unknown - could exceed <u>\$100,000</u>)	(Unknown - could exceed <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Unknown - could exceed <u>\$100,000</u>)	(Unknown - could exceed <u>\$100,000</u>)	(Unknown - could exceed <u>\$100,000</u>)

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2014 (10 Mo.)	FY 2015	FY 2016
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**MISSOURI OFFICE OF
 PROSECUTION SERVICES FUND**

<u>Income</u> - \$5 per each crime victim to whom restitution is paid. (§ 559.100.3)	<u>\$100,000</u>	<u>\$100,000</u>	<u>\$100,000</u>
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ESTIMATED NET EFFECT TO THE MISSOURI OFFICE OF PROSECUTION SERVICES FUND	<u>\$100,000</u>	<u>\$100,000</u>	<u>\$100,000</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
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**LOCAL POLITICAL SUBDIVISIONS
 - ADMINISTRATIVE HANDLING
 COST FUND**

<u>Income</u> - Administrative Handling Costs - Maximum of \$75 per restitution §559.100.3	Unknown	Unknown	Unknown
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<u>Costs</u> - prosecuting attorney or circuit attorney costs to implement provision of the bill in collecting restitution.	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT TO THE ADMINISTRATIVE HANDLING COST FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</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 act provides that restitution must be paid through the office of the prosecuting or circuit attorney.

In addition, this act allows the prosecuting attorney who takes action to collect restitution to collect an administrative handling cost of \$25 if the restitution is less than \$100, \$50 if the restitution is \$100 to \$249, and up to \$75 if the restitution is \$250 or more.

The proceeds are to be deposited by the county treasurer into an "Administrative Handling Cost Fund" to be expended by the prosecuting attorney. The fund may be used for office supplies, postage, books, training, office equipment, capital outlay, trial expenses, witness preparation, additional employees, salaries, or other lawful expenses incurred by the prosecuting attorney.

This act also requires the collection of \$5 per each crime victim to whom restitution is paid. The \$5 cost is to be deposited in the Missouri Office of Prosecution Services Fund.

Current law provides that a court may order a person to make restitution when the person has been found guilty of first degree tampering involving an automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle or stealing a motor vehicle, watercraft, or aircraft. The restitution must include payment for repairs or replacement of the vehicle, watercraft, or aircraft and any costs associated with towing or storage fees. In addition, a person may be required, as a condition of parole, to make restitution. This act expands the current restitution law so that it applies to any person found guilty of any offense and repeals the provisions requiring the restitution include repairs, towing, and storage fees. In addition, this act provides that a person must be required to make restitution as a condition of parole.

This act allows the court to set an amount of restitution to be taken from the inmate's account while incarcerated by the Department of Corrections.

This act also provides that the payment of restitution may be collected as a condition of conditional release or parole by the prosecuting attorney and that the prosecuting attorney may refer any failure to make restitution as a violation of parole or the terms of conditional release.

This act provides that restitution collected from a person found guilty of passing a bad check must also be put in the "Administrative Handling Cost Fund".

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

Department of Corrections
Department of Revenue
Office of State Courts Administrator
Office of the State Auditor

Not Responding:

Office of Prosecution Services



Ross Strobe
Acting Director
April 2, 2013