

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4472-02
Bill No.: HCS for HB 1231
Subject: Courts; Judges; Civil Procedure
Type: Original
Date: April 8, 2014

Bill Summary: This proposal changes the laws regarding judicial procedures.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Fund	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Total Estimated Net Effect on General Revenue Fund	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
PACERS FUND	\$434,025	\$520,830	\$520,830
Total Estimated Net Effect on <u>Other</u> State Funds	\$434,025	\$520,830	\$520,830

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 29 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
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 2015	FY 2016	FY 2017
Local Government	Greater than \$149,840	Greater than \$120,286	Greater than \$120,286

FISCAL ANALYSIS

ASSUMPTION

§§56.363, 56.800, 56.805, 56.811, 56.827, 56.833, 56.840, 56.850, 56.860 and 105.684 - Modifies provisions relating to the Prosecuting and Circuit Attorneys' Retirement System

Officials from the **Prosecuting and Circuit Attorneys' Retirement System (PACARS)** state that originally a surcharge for many traffic violations, which were not resolved at the Fine Collection Center (FCC), was enacted to help fund PACARS. All counties are now required by the Supreme Court rule to use the FCC, which eliminates the surcharge revenue. This proposal restores the original intent and effect of the surcharge by restoring the lost funding.

Furthermore, the proposal addresses the fact that many counties are electing to make their Prosecuting Attorney a full time position in accordance with Section 56.363, RSMo. This election, once made, has the effect of increasing the pay of the prosecuting attorney position, and substantially increasing the retirement benefit as well as the required county contribution to PACARS. Several of the former prosecutors, vested in the old "part-time" benefit, have been reelected as prosecuting attorney after a hiatus of several years during which the county has elected to make the position full-time. Then, after a few years, without the requirement to vest again, the retirement benefit increases from as low as \$7,560 per year to about \$60,000 per year under the existing language of Chapter 56, RSMo. The original monies paid in do not support the new retirement benefit. The provisions of this proposal address the situation by requiring a new vesting period.

Officials from the **Joint Committee on Public Retirement** assume the legislation primarily addresses the issues of: modifying the funding mechanism associated with the PACARS, requiring prosecutors in full-time positions to be considered full-time for retirement benefit purposes, addressing part-time and full-time service credit, prohibiting certain service transfers until vested status, and excluding PACARS from the 80% funding requirement to enact new benefit enhancements.

Due to the multiple provisions addressed in this legislation, such legislation may constitute a "substantial proposed change" in future plan benefits as defined in Section 105.660(10), RSMo. It is impossible to accurately determine the fiscal impact of this proposed legislation without an actuarial costs statement prepared in accordance with Section 105.660, RSMo, or affected plan analysis.

ASSUMPTIONS (continued)

Sections 56.807 and 488.026

Officials from the **Office of the State Courts Administrator** state that the above sections of the proposal would allow a \$4 surcharge for the PACARS Fund to be assessed and against persons who pled and paid a fine through the fine collection center.

Based on data for the past five years, FY 09 through FY 13, we assume that the average is approximately 130,207 fine collection center cases on which this \$4 surcharge could be applied. We anticipate the revenue from the surcharge would be approximately \$520,830 in any given year.

FY 09	120,507
FY 10	120,443
FY 11	127,663
FY 12	144,130
<u>FY 13</u>	<u>138,325</u>
Total	651,038
Average	130,207

Oversight assumes this proposal will modify the county contribution to PACARS. The legislation proposes a variable county contribution tied to the PACARS funded ratio:

Funded Ratio	County Contribution
120% and higher	No monthly sum transmitted
Greater than 110% to less than 120%	Monthly sum reduced by 50%
90% to 110%	Standard monthly sum transmitted
80% to less than 90%	Monthly sum increased by 50%
Less than 80%	Monthly sum increased by 100%

The PACARS actuarial value, as of July 1, 2012, which is most recent, was 86%. According to the proposal, the counties will each have an increased contribution of 50%.

ASSUMPTION (continued)

According to Section 56.807, RSMo, the current monthly county contributions are as follows:

1st Class: \$646
2nd Class: \$271
3rd Class: \$187
4th Class: \$187

Oversight assumes based on current actuarial value this would change their contributions to:

1st Class: \$969	Increase of: \$323
2nd Class: \$407	Increase of: \$136
3rd Class: \$281	Increase of: \$94
4th Class: \$281	Increase of: \$94

Oversight assumes that the increased cost to counties would create a negative fiscal impact on local governments. There are 17 first class counties, 4 second class counties, 89 third class counties, and 4 fourth class counties in Missouri. The increased cost to local governments would be (\$14,777) per month or (\$177,324) annually, if the funded ratio remains between 80% and 90%.

§§210.145, 210.150, 452.375, - Dissolution or child custody proceedings

In response to similar legislation (HB 1592), officials from the **DSS - Division of Legal Services (DLS)** state DLS anticipates that it will be called upon to provide legal advice and counsel upon implementation. In the event that this proposal causes the Children's Division (CD) to receive only a few additional subpoenas for records, the DLS expects that this may be accomplished utilizing existing resources. The DLS defers to the CD for its analysis of the fiscal impact on the DSS.

In response to similar legislation (HB 1592), officials from the **Department of Social Services (DSS) - Children's Division (CD)** state the Division does not anticipate a fiscal impact as a result of this legislation.

Officials from the **Office of State Courts Administrator** assume the proposal would not fiscally impact their agency.

ASSUMPTION (continued)

§§211.183 and 211.447 - Termination of parental rights proceedings

In response to similar legislation (HB 1492), officials at the **Department of Corrections (DOC)** assume no fiscal impact from this proposal. Although passage of this bill would have no fiscal impact for the DOC, it has the potential to be quite impactful to the offender population. Many of them have used drugs or have drug convictions that may be considered in determining their parental fitness in termination of their parental rights proceedings. Terminating an offender's parental rights may impact their willingness to strive to self-improve while in prison, decreasing their chances of becoming a productive member of society upon release. The DOC offers many programs that assist offenders in improving their parenting and cognitive skills while incarcerated. Due to completion of these programs, they may actually become better parents after being incarcerated.

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

Officials at the **Office of Prosecution Services** assume no fiscal impact from this proposal.

In response to similar legislation (HB 1492), officials at the **Office of the State Courts Administrator**, the **Office of the State Public Defender**, and the **Department of Social Services** each assume no fiscal impact to their respective agencies from this proposal.

§§452.400, 453.015, 453.040 and 475.072 - Custody and visitation rights of a father

In response to similar legislation (HB 1252), officials from the **Department of Social Services (DSS) - Children's Division (CD)** state this proposal gives the court discretion in denying custody and visitation rights of a parent if the court has found that a parent attempted to coerce the mother of the unborn child into obtaining an abortion, as well as removing the requirements of getting consent from that parent for adoption. The Division does not anticipate that his proposal will have a fiscal or programmatic impact on the CD.

Officials from the **Office of State Courts Administrator** indicate they would not expect the proposal to have a significant fiscal impact on the courts. However, if other similar bills pass that result in additional duties to the courts, the combined impact could result in a request for additional appropriations.

ASSUMPTION (continued)

Officials at the **Office of Administration** assume no fiscal impact from this proposal.

§§453.110 and 453.700 - Changes the laws regarding adoption

In response to similar legislation (HB 1788), officials from the **Department of Social Services (DSS) - Children's Division (CD)** state section 453.026 removes the barrier to providing a written report to the court, the guardian ad litem (GAL) and the prospective adoptive parent before the prospective adoptive parent accepts physical custody for a child less than 6 months of age.

In section 453.030.5, this proposal speeds up the process of executing written consent to adopt by reducing the required time a parent must wait to execute written consent from 48 hours to 24 hours old.

In section 453.077, this proposal speeds up the process toward adoption by reducing the required placement period with the petitioner from 6 months to at least 3 months.

In section 453.080.1, this proposal speeds up the process toward adoption by reducing the requirements of the court to ascertain whether the child has been in the petitioner's custody from 6 months to 3 months prior to the entry of the adoption decree. This proposal reduces this requirement to 3 months unless, the person sought to be adopted is a child less than 6 months of age at the time the petitioner obtains lawful and actual custody of the child.

In section 453.110.5, this proposal provides that this section does not prohibit a parent from placing a child with another individual for care as part of a pre-adoption placement, if the right to supervise the care of the child and to resume custody is retained. This should not create a fiscal impact to the CD.

Section 453.700 provides restrictions regarding advertising and listing of contact information in regard to adoption recruitment by specifying that only an attorney or a Missouri licensed child placing agency may place, or cause to be placed, an advertisement or listing of the attorney's or agency's telephone number or other contact information in a telephone directory or other advertising distributed within the state of Missouri that states or implies that a child is offered or wanted for adoption; or the attorney or agency is able to place, locate, or receive a child for adoption.

ASSUMPTION (continued)

The CD does not believe the intent of this proposal was to exclude the Children's Division from the ability to advertise for the purpose of recruiting adoptive placements. As it is currently written, Section 453.700 does not authorize either the Children's Division or other exempt child placing agencies to place advertisements for adoption.

The CD does not anticipate a fiscal or programmatic impact as result of this legislation.

In response to similar legislation (HB 1788), officials from the **DSS - Division of Legal Services (DLS)** state the DLS anticipates that it will be called upon to provide legal advice and counsel upon implementation. The DLS expects that this may be accomplished utilizing existing resources. As to the overall fiscal impact of this proposal, the DLS defers to the Children's Division.

In response to similar legislation (HB 1788), officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases where indigent persons are charged with the proposed new crime of knowingly or intentionally violating the adoption laws of this state - a new class A misdemeanor.

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 effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

In response to similar legislation (HB 1788), officials from the **Department of Corrections (DOC)** state the penalty provisions for violations, the component of the bill to have a potential fiscal impact for DOC, is for up to a class D felony. 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 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 of direct offender costs either through incarceration (FY 13 average of \$18.014 per offender, per day, or an annual cost of \$6,575 per inmate) or through supervision provided by the Board of Probation and Prolongation (FY 13 average of \$5.07 per offender, per day, or an annual cost of \$1,851 per offender).

ASSUMPTION (continued)

DOC assumes the narrow scope of the crime will not encompass a large number of offenders. The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence and the probability exists that offenders would be charged with a similar, but more serious offence, or that sentences may run concurrent to one another.

The DOC assumes supervision by the DOC through probation or incarceration 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.

Officials from the **Office of State Courts Administrator** indicate they would not expect the proposal to have a significant fiscal impact on the courts. However, if other similar bills pass that result in additional duties to the courts, the combined impact could result in a request for additional appropriations.

In response to similar legislation (HB 1788), officials from the **Department of Health and Senior Services** assume the proposal would not fiscally impact their agency.

Officials from the **Office of Prosecution Services** assume no fiscal impact from this proposal.

§455.007 - Judicial procedures

Officials at the **Department of Corrections** are unable to determine the exact number of people who would be convicted under the provisions of this bill and whether or not additional inmate beds may be required as a consequence of passage of this proposal. The cumulative effect of various new legislation, if adopted as statute may require institutional facility expansion.

Officials at the **Office of the State Courts Administrator** assume the fiscal impact from this proposal would not be in excess of \$100,000.

Oversight assumes CTS could absorb the costs from this proposal within their current appropriation level.

ASSUMPTION (continued)

§456.950 - Qualified Spouse Trusts

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

Officials at the **Office of the State Courts Administrator** and the **Department of Insurance, Financial Institutions and Professional Registration** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the Department of Revenue did not respond to **Oversight's** request for fiscal impact. Oversight will assume no fiscal impact from this proposal.

§§456.4-420 and 474.395 - No-contest clauses in wills and trusts

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

Officials from the **Office of the State Courts Administrator** assume the current proposal would not fiscally impact their agency.

Officials at the **Office of Prosecution Services** assume no fiscal impact from this proposal.

§456.8-818 - Protections granted under attorney-client privilege for Trustees and Attorneys

Officials from the **Office of the State Courts Administrator** assume the current proposal would not fiscally impact their agency.

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

ASSUMPTION (continued)

§478.437 and 478.740 - Changes in judge positions in St. Louis County and the 38th Judicial Circuit

In response to similar legislation (HB 2083), officials at **Christian County** currently do not have space available for additional judges. To implement this change, the sheriff would relocate to another facility. The existing space would be used to accommodate the Prosecuting Attorney. Then the Prosecuting Attorney's space would be remodeled into a courtroom. As a result, both current spaces would have to be remodeled.

The following is a itemized cost analysis based on the information provided to us:

One-Time Cost for Renovation

Approximately 9,000 square feet of renovation	
@ \$150 per square feet based on prevailing wage	\$1,350,000
Moving expense and technology for Sheriff	<u>\$ 100,000</u>
Total of One Time Costs	\$1,450,000

Continued Costs

Monthly lease for Sheriff's Administration	\$ 96,000
Circuit Clerk's office expense and additional jurors	<u>\$ 50,000</u>
Total Continued Costs	\$ 146,000

Oversight assumes Christian County would incur their expenses whether they get a new Circuit Judge or a new Associate Circuit Judge. Therefore, this bill would not have an impact to them and Oversight will show the local political subdivisions as \$0 impact.

Officials at the **Office of the State Courts Administrator** assume the proposed legislation substitutes additional circuit judges and an associate circuit judge in lieu of associate circuit judges that could be awarded under section 478.320 RSMo in 2014 to St. Louis County and the 38th Circuit. The cost of the positions is as follows:

Circuit Judge	\$145,343	fringe	\$111,037
Associate Circuit Judge	\$133,716	fringe	\$103,348
Court Reporter	\$ 56,612	fringe	\$ 24,640
Court Clerk III	\$ 32,300	fringe	\$ 17,439

ASSUMPTION (continued)

Under Section 478.320.2 RSMo, the 21st Circuit qualifies for three additional associate circuit judges in the fiscal 2015 budget. The Judiciary has submitted a request for three associate circuit judges and three court clerk III positions to start January 1, 2015 for a cost in FY15 of \$249,024 plus fringe. Funding for a full year will be \$498,048 plus fringe. This legislation would substitute one circuit judge and one court reporter for two associate circuit judges and two court clerk III. The cost of one circuit judge and one court reporter is \$201,955 plus fringes. This cost would be offset by the savings of two associate circuit judges and two court clerk III totaling \$332,032 plus fringes resulting in an annual savings of \$130,077 plus fringe.

Under section 478.320.2 RSMo, the 38th Circuit qualifies for one additional associate circuit judge in the fiscal 2015 budget. The Judiciary has submitted a request for one associate circuit judge and one court clerk III position to start January 1, 2015 for a cost in fiscal 2015 of \$83,008 plus fringes. Funding for a full year will be \$166,016 plus fringes. This legislation would substitute one circuit judge and one court reporter for one associate circuit judge and one court clerk III. The cost of one circuit judge and one court reporter is \$201,955 plus fringes. This cost would be offset by the savings of one associate circuit judge and one court clerk III totaling \$166,016 plus fringe, resulting in an annual increase of \$35,939 plus fringes. The total savings of this legislation is potentially \$94,138 plus fringes. (Please see the chart listed below).

ASSUMPTION (continued)

21st Judicial Circuit currently qualifies for the following:

	Salary	Fringe	FTEs	Total
Associate Circuit Judge	\$ 133,716	\$ 103,348	3	\$ 711,192
Court Clerk III	\$ 32,300	\$ 17,439	3	\$ 149,217
Total				\$ 860,409

HCS for HB 1231 proposes to replace 2 Associate Circuit Judge and 2 Court Clerk III positions with 1 Circuit Judge and 1 Court Reporter:

	Salary	Fringe	FTEs	Total
Associate Circuit Judge	\$ 133,716	\$ 103,348	1	\$ 237,064
Court Clerk III	\$ 32,300	\$ 17,439	1	\$ 49,739
Circuit Judge	\$ 145,343	\$ 111,037	1	\$ 256,380
Court Reporter	\$ 56,612	\$ 24,640	1	\$ 81,252
				\$ 624,435

Savings realized from this proposal **\$ 235,974**

38th Judicial Circuit currently qualifies for the following:

	Salary	Fringe	FTEs	Total
Associate Circuit Judge	\$ 133,716	\$ 103,348	1	\$ 237,064
Court Clerk III	\$ 32,300	\$ 17,439	1	\$ 49,739
Total				\$ 286,803

HCS for HB 1231 proposes to replace 1 Associate Circuit Judge and 1 Court Clerk III positions with 1 Circuit Judge and 1 Court Reporter

	Salary	Fringe	FTEs	Total
Circuit Judge	\$ 145,343	\$ 111,037	1	\$ 256,380
Court Reporter	\$ 56,612	\$ 24,640	1	\$ 81,252
				\$ 337,632

Cost realized from this proposal **\$ (50,829)**

Grand Total realized from this proposal **\$ 185,145**

ASSUMPTION (continued)

Officials at the **Office of Prosecution Services** assume no fiscal impact from this proposal.

Officials at **St. Louis County** assume no fiscal impact from this proposal.

§516.350 - Allows liens of judgments to be revived

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

Officials at the **Office of Prosecution Services**, the **Office of the State Courts Administrator** and the **Office of the State Public Defender** each assume no fiscal impact to their respective agencies from this proposal.

§§536.010 and 546.720 - Department of Corrections to promulgate rules

In response to similar legislation (HB 1737), officials from the **Department of Corrections (DOC)** state if passed, there are safety and security concerns with making the DOC's entire execution policy (such as when/where/how security staff are assigned on the night of an execution) part of an open rule making process. In summary, the estimated fiscal impact is unknown per each fiscal year.

Oversight assumes DOC's potential unknown cost regarding rulemaking of the execution of inmates is speculative. Therefore, Oversight will assume the proposal would not create a direct fiscal impact to the state.

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal could be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

ASSUMPTION (continued)

In response to similar legislation (HB 1737), officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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.

Officials from the **Joint Committee on Administrative Rules** and the **Office of the Governor** each assume the proposal would not fiscally impact their respective agencies.

In response to similar legislation (HB 1737), officials at the **Department of Social Services** assume no fiscal impact from this proposal.

§§632.480, 632.483 and 632.484 - Sexually violent offense conviction in another state

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal could be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

In response to similar legislation (HB 1741), officials from the **Department of Mental Health** state to the extent that referrals for sexually violent predator (SVP) in Missouri as a result of convictions in other states is increased, the fiscal impact will increase. The fiscal impact is unknown.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state currently, they cannot predict the number of new commitments or extended incarcerations which may result from the expansion of a sexually violent predator as 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 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, supervision by the DOC through probation or incarceration would result in additional costs to the department and the exact fiscal impact is unknown.

In response to similar legislation (HB 1741), officials from the **Office of the State Public Defender (SPD)** state clients charged as sexually violent offenders are extremely expensive to defend. The average cost of each SVP case opened by the SPD was approximately \$20,000. If just 5 additional SVP cases were assigned to the SPD, the resulting cost would be \$100,000 per year.

Officials from the **Office of Prosecution Services** assume no fiscal impact from this proposal.

§302.067 - Source documents for a driver's license renewal

In response to similar legislation (HB 1447), officials from the **Office of the Secretary of State (SOS)** assumed many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

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.

Officials from the **Department of Revenue (DOR)** assume this new section prohibits the Department from requiring applicants whose source documents have been previously verified from having to present such documents upon application for renewal or replacement of the same driver's license or nondriver's license.

The proposed language within this section includes exceptions to the waiver provisions for applicants: who are not citizens of the United States; in cases where document may have been issued as a result of a fraudulent act and those who are applying for a commercial driver license or commercial driver instruction permit.

Administrative Impact

FY `15 - Driver License Bureau

Administrative Analyst I-	200 hrs @ \$26 per hr = \$5,200
Management Analyst Specialist II	200 hrs @ \$24 per hr = \$4,800
Revenue Band Manager -	20 hrs @ \$32 per hr = <u>\$640</u>
	Total = \$10,640

FY `15 Personnel Services Bureau

Update web page - Administrative Analyst III	10 hrs @ \$23 = \$230
Update forms - Management Analysis Spec I	20 hrs @ \$22 = \$440
Update procedures - Management Analysis Spec I	20 hrs @ \$22 = <u>\$440</u>
	Total = \$1,110

OA ITSD

Missouri Electronic Driver License - Central Issuance System will require changes to existing document verification waiver process at a cost of \$1,092.

In summary, DOR assumes a cost of \$12,842 (\$10,640 + \$1,110 + \$1,092) in FY 2015 to provide for the implementation of the changes in this proposal.

ASSUMPTION (continued)

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

§456.2-205 - Provisions in a trust instrument requiring mediation or arbitration

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

Officials from the **Office of the State Courts Administrator** assume the current proposal would not fiscally impact their agency.

§476.085 - St. Louis County Bar Association to conduct research

Officials at the **Office of the State Courts Administrator** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

Officials at **St. Louis County** assume no fiscal impact from this proposal.

In response to similar legislation (HB 1775), officials at the **Office of the State Public Defender** assume no fiscal impact from this proposal.

§488.2240 - Springfield can charge an additional \$10 fee for municipal ordinance violation cases

In response to similar legislation (HB 1825), officials at the **Office of the State Courts Administrator** assume the proposed legislation allows Springfield to charge an additional \$10 fee for each municipal ordinance violation case to pay for courthouse upkeep. During FY 2013, there were 29,761 municipal ordinance violations (731 alcohol/drug, 21,857 other traffic and 7,173 non-traffic) that may be eligible. Based on the \$10 court cost for each violation, the projected annual increase would be \$297,610 to unknown.

Officials at the City of Springfield and Greene County did not respond to **Oversight's** request for fiscal impact.

ASSUMPTION (continued)

§537.602 - Limited civil immunity

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

Officials at the **Office of Prosecution Services**, the **Missouri Department of Transportation**, the **Office of the State Courts Administrator**, the **Office of Administration**, the **Office of the State Public Defenders** and the **Department of Conservation** each assume no fiscal impact to their respective agencies from this proposal.

Officials at **St. Louis County** assume no fiscal impact from this proposal.

In response to similar legislation (HB 1438), officials at **Cole County** assume no fiscal impact from this proposal.

§574.160 - Prohibits protest activities at funeral services

Officials from the **Office of the State Courts Administrator** and the **Department of Public Safety - Missouri Highway Patrol** each assume the proposal would not fiscally impact their respective agencies.

In response to similar legislation (HB 1372), officials at the **Office of State Public Defender (SPD)** stated they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of protesting at a residence, cemetery, funeral home, church, synagogue, or other establishment during or within one hour before or one hour after the conducting of any actual funeral or burial service at that place - a new class B misdemeanor.

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 effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

In response to similar legislation (HB 1372), officials from the **Department of Corrections (DOC)** state penalty provisions for violations, the component of the bill to have potential fiscal impact for DOC, is for a class A misdemeanor. 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 legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY13 average of \$5.07 per offender, per day or an annual cost of \$1,851 per offender).

In summary, 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.

Officials from the **Office of Prosecution Services** assume no fiscal impact from this proposal.

§632.520 - Criminal penalties for acts of violence

In response to similar legislation (HB 1243), officials from the **Office of Administration (OA) - Division of General Services (GS)** stated this legislation (§632.520.2) could potentially result in savings to the state's workers' compensation program with the following assumption:

That an offender residing in a state mental health facility would be deterred from acting out violently against an employee of the facility knowing that the punishment could result in charges and a possible conviction of a class B felony.

Oversight assumes an unknown savings to the General Revenue Fund.

In response to similar legislation (HB 1243), officials from the **Department of Corrections (DOC)** state the penalty provision component of this bill resulting in a potential fiscal impact for the DOC is for up to a class B felony. 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 utilization by prosecutors and the actual sentences imposed by the court.

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 costs either through incarceration (FY 13 average of \$18.014 per offender, per day, or an annual cost of \$6,575 per inmate) or through supervision provided by the Board of Probation and Parole (FY 13 average of \$5.07 per offender, per day, or an annual cost of \$1,851 per offender).

Therefore, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Sixteen (16) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

In response to similar legislation (HB 1243), officials at the **Office of State Public Defender (SPD)** stated they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crimes of knowingly committing violence to an employee of the Department of Mental Health (DMH) or to another offender housed in a secure facility. Violation of this new subsection would become a new class B felony and knowingly damaging any building or other property owned or operated by the DMH would become a new class C felony.

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 effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Office of Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if there is a significant increase in referrals or if the proposal results in significant litigation.

Officials from the **Office of State Courts Administrator** indicate they would not expect the proposal to have a significant fiscal impact on the courts. However, if other similar bills pass that result in additional duties to the courts, the combined impact could result in a request for additional appropriations.

ASSUMPTION (continued)

In response to similar legislation (HB 1243), officials from the **Department of Mental Health (DMH)** state the proposed legislation imposes no additional duties nor threatens current revenues. No fiscal impact is anticipated.

Based on discussions with DMH staff, **Oversight** notes that the DMH would not expect to have significant savings as a result of sending one or two people to the DOC as a result of this proposal. The DMH receives funding for a “ward”, rather than for the number of people in their care. The DMH does not believe they would ever send enough individuals to the DOC in a year to save the cost of an entire ward.

Officials from the **Department of Public Safety (DPS) - Missouri State Highway Patrol** assume the proposal would not fiscally impact their agency.

In response to similar legislation (HB 1243), officials at the **OA - Facilities Management, Design and Construction** assume no fiscal impact from this proposal.

Officials from the **Office of Prosecution Services** assume no fiscal impact from this proposal.

§§302.065, 452.556 and 516.140

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

§478.610 - Judges in the 13th judicial circuit

Officials at the **Office of the State Courts Administrator** assumes this section of the legislation authorizes the 13th judicial circuit to appoint or retain a commissioner pursuant to section 478.003. The total cost of this section of the legislation is potentially \$116,858 plus fringes. In addition, section 478.610.3 authorizes one more additional associate circuit judge position in Boone County than is provided currently in section 478.320. If this authorizes one associate circuit judge in addition to those currently authorized then the total cost of this section of the legislation is potentially \$133,716 plus fringes.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
 PACARS FUND			
<u>Revenue</u> - \$4 Fine Collection Center Surcharge §§56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 105.684, 488.026, 56.850, 56.860 (pages 3-4)	<u>\$434,025</u>	<u>\$520,830</u>	<u>\$520,830</u>
ESTIMATED NET EFFECT ON PACARS FUND	<u>\$434,025</u>	<u>\$520,830</u>	<u>\$520,830</u>
 GENERAL REVENUE			
<u>Savings</u> - 21st Judicial Circuit - from proposal to replace positions §§478.437, 478.740 (pages 11-14)	\$117,987	\$235,974	\$235,974
<u>Costs</u> - 38th Judicial Circuit - from proposal to replace positions §§478.437, 478.740 (pages 11-14)	(\$25,415)	(\$50,829)	(\$50,829)
<u>Costs</u> - Department of Mental Health potential treatment of additional SVP cases because of additional referrals §§632.480, 632.483, 632.484 (pages 15-16)	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
<u>Costs</u> - Department of Corrections potential additional incarceration expense for additional SVP referrals §§632.480, 632.483, 632.484 (pages 15-16)	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> - Office of the State Public Defender - potential for increased SVP- defense cases §§632.480, 632.483, 632.484 (pages 15-16)	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)

Savings - OA-GS (§632.520)

Reduction in workers' compensation program costs (pages 20-22)	Unknown	Unknown	Unknown
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Costs - DOC (§632.520)

Incarceration and probation costs (pages 20-22)	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)
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Costs - Office of the State Courts

Administrator - salary and fringe for 1 Commissioner (§478.610) (page 22)	<u>\$0 to (\$207,548)</u>	<u>\$0 to (\$207,548)</u>	<u>\$0 to (\$207,548)</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	<u>FY 2015 (10 Mo.)</u>	<u>FY 2016</u>	<u>FY 2017</u>
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LOCAL POLITICAL SUBDIVISIONS

<u>Revenue - City of Springfield - additional court fees §488.2240 (page 18)</u>	Greater than \$297,610	Greater than \$297,610	Greater than \$297,610
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Costs - Counties

Increased PACARS contribution §§56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 105.684, 488.026, 56.850, 56.860 (pages 3-4)	<u>(\$147,770)</u>	<u>(\$177,324)</u>	<u>(\$177,324)</u>
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ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Greater than \$149,840</u>	<u>Greater than \$120,286</u>	<u>Greater than \$120,286</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

§§56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 105.684, 488.026, 56.850 and 56.860

Currently, each county treasurer must transfer a specified sum of money each month to the Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund for use by the fund. Beginning August 28, 2015, the bill requires that the county contribution be adjusted in accordance with the following schedule based on the retirement system's annual actuarial valuation report:

- (1) If the system's funding ratio is 120% or more, no monthly sum must be transmitted;
- (2) If the system's funding ratio is more than 110% but less than 120%, the monthly sum transmitted must be reduced 50%;
- (3) If the system's funding ratio is at least 90% and up to 110%, the monthly sum transmitted must remain the same;
- (4) If the system's funding ratio is at least 80% and less than 90%, the monthly sum transmitted must be increased 50%; and
- (5) If the system's funding ratio is less than 80%, the monthly sum transmitted must be increased 100%.

Currently, a surcharge of \$4 is assessed and collected in all criminal cases filed in court, including any violation of a county ordinance or any violation of the state's criminal or traffic laws, including infractions. The bill adds any person who pleads guilty and pays a fine through a fine collection center to the list of those who are to be assessed the surcharge. In addition, the bill allows prosecuting attorneys, in all counties that elect to make the position of prosecuting attorney a full-time position, to participate in the retirement system for prosecuting and circuit attorneys. The prosecutor is eligible for the same benefits as a full-time prosecutor in a county of the first classification.

§§478.437 and 478.740

This bill specifies that if the circuit court of St. Louis County is awarded additional associate circuit judge positions in 2014 based on the judicial weighted workload model, there must be one additional associate circuit judge position and one additional circuit judge position in lieu of the additional associate circuit judge positions awarded under Section 478.320, RSMo.

If the 38th Judicial Circuit is awarded an additional associate circuit judge position in 2014 based on the judicial weighted workload model, there must be one additional circuit judge position in lieu of the additional associate circuit judge position awarded under Section 478.320. The additional circuit judge position must be in addition to the number of circuit judge and associate judge positions in existence in the 38th Judicial Circuit on the effective date of this provision, with at least one circuit judge appointed for Taney County and at least one circuit judge

FISCAL DESCRIPTION (continued)

appointed for Christian County.

§302.067

This bill specifies that a person who has presented documents to obtain a driver's license, nondriver's license, or instruction permit must not be required to present the documents again to obtain a renewal or replacement except for documents that demonstrate lawful presence of an applicant who is not a citizen if it is reasonably believed by the Department of Revenue that the prior license may have been issued as a result of a fraudulent act of the applicant or the applicant is applying for or renewing a commercial driver's license or instruction permit. By January 2, 2016, the department must implement same-day service to print and issue a license in the license office at the time of application.

§§632.480, 632.483, 632.484

This bills specifies that a conviction in this state or any other jurisdiction for a sexually violent offense can be considered when determining if a person is a sexually violent predator for purposes of confinement and treatment.

§488.2240

This bill allows the City of Springfield to impose an additional court cost of up to \$10 for each municipal ordinance violation case filed before a municipal division judge or associate circuit judge. The city can only use the additional costs for land assemblage and purchase, construction, maintenance, and upkeep of a municipal courthouse.

§632.520

This bill specifies that a sexually violent predator ordered or committed to the Department of Mental Health who knowingly commits violence to an employee of the department or to another offender housed in a secure facility operated by the department will be guilty of a class B felony. An offender who knowingly damages any building or other property owned or operated by the department will be guilty of a class C felony.

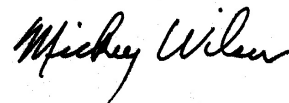
FISCAL DESCRIPTION (continued)

§478.610

This bill authorizes the 13th judicial circuit to appoint or retain a commissioner pursuant to section 478.003.

SOURCES OF INFORMATION

Office of Attorney General
Office of Administration -
 Facilities Management, Design and Construction
 General Services Division
Office of State Courts Administrator
Department of Mental Health
Department of Corrections
Department of Public Safety -
 Missouri State Highway Patrol
Office of State Public Defender
Office of Prosecution Services
Prosecuting and Circuit Attorney's Retirement System (PACARS)
Joint Committee on Public Retirement
Department of Social Services
 Division of Legal Services
 Children's Division
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Christian County
St. Louis County
Office of the Secretary of State
Joint Committee on Administrative Rules
Office of the Governor
Department of Revenue
Office of the State Treasurer
Cole County
Department of Conservation



Mickey Wilson, CPA
Director
April 8, 2014

L.R. No. 4472-02
Bill No. HCS for HB 1231
Page 29 of 29
April 8, 2014

Ross Strobe
Assistant Director
April 8, 2014

NM:LR:OD