

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4472-04
Bill No.: SCS for HCS for HB 1231
Subject: Courts; Judges; Civil Procedure
Type: Original
Date: May 12, 2014

Bill Summary: This proposal changes the laws regarding administration of justice.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Fund	(Less than \$1,714,976)	(Less than \$1,522,403)	(Less than \$1,522,403)
Total Estimated Net Effect on General Revenue Fund	(Less than \$1,714,976)	(Less than \$1,522,403)	(Less than \$1,522,403)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
PACERS FUND	\$434,025	\$520,830	\$520,830
Joint Contingency*	\$0	\$0	\$0
Cyber Crime*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$434,025	\$520,830	\$520,830

Revenues and Costs net to zero

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 32 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	Unknown to \$1,508,870	Unknown to \$1,479,316	Unknown to \$1,479,316

FISCAL ANALYSIS

ASSUMPTION

§21.880 - Creates a permanent Joint Committee on Judiciary and Justice

In response to similar legislation (SB 621), officials at the **Office of the Attorney General (AGO)** assumed the proposal in §21.880 creates a new committee, with the Attorney General or his designee to serve on the committee. The AGO currently assumes that the costs of such committee participation could be absorbed with existing resources, but may seek additional appropriations if the time and efforts required by the committee exceed expectations.

The AGO assumes that any potential costs arising from the other provisions of the proposal can be absorbed with existing resources, but 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** assume this section of the proposed legislation establishes a permanent joint committee of the general assembly, which shall be known as the "Joint Committee on the Justice System". There may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials at the **Department of Economic Development**, the **Department of Revenue**, the **Department of Natural Resources** and the **Department of Social Services** each assume no fiscal impact to their respective agencies from this proposal.

In response to similar legislation (SB 621), officials at the **Joint Committee on Legislative Research** and the **Office of the Governor** each assumed no fiscal impact to their respective agencies from this proposal.

The proposal states the committee may "employ such personnel as it deems necessary to carry out the duties imposed by this section." **Oversight** assumes the committee may employ up to 2 FTE to accomplish the duties as directed. Oversight assumes the cost for the FTE, reimbursement of actual and necessary expenses of the committee members, and other expenses could exceed \$100,000 annually.

ASSUMPTION (continued)

Oversight will reflect a transfer funds from the General Revenue Fund to the Joint Contingency Fund in an amount of "Could exceed \$100,000" annually to cover the expenses of the Joint Committee on Judiciary and Justice. Oversight assumes expenditures will equal funds transferred-in and will net to \$0.

§43.675 - Regional Justice Information Service

Officials from the **Office of the State Courts Administrator** state there may be some impact, but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

In response to a previous version, officials from the **Attorney General's Office** assumed that any potential costs arising from this proposal could be absorbed with existing resources.

Officials at the **Department of Public Safety - Missouri Highway Patrol** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

In response to a previous version, officials from the **Missouri Department of Transportation** assumed the proposal would not fiscally impact their agency.

Officials at the **Department of Corrections** assume no fiscal impact from this proposal.

Officials from St. Louis City and St. Louis County did not respond to **Oversight's** request for fiscal impact.

§§56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 56.850, 56.860 - 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

ASSUMPTION (continued)

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.

In response to a previous version, officials from the **Joint Committee on Public Employee Retirement** assumed 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.

§105.711 - Definition of "Community Health Clinic"

Officials at the **Office of Administration** assumed this proposed change would result in unknown costs to the State Legal Expense Fund.

In response to similar legislation (HB 1793), officials at the **Office of the Attorney General (AGO)** assumed this proposal potentially expands the types of entities and activities covered by the State Legal Expense Fund (LEF). The AGO is responsible for the legal defense of the LEF. The AGO assumes that costs associated with the proposal could be absorbed with existing resources, but may seek additional resources if significant additional litigation results.

Oversight assumes that since AGO administers the State Legal Expense Fund, they will not ask for any additional funding that is specific to this proposal.

ASSUMPTION (continued)

Officials at the **Department of Social Services** and the **Department of Health and Senior Services** each assume no fiscal impact to their respective agencies from this proposal.

§§211.183 and 211.447 - Termination of parental rights proceedings

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.

In response to a previous version, officials at the **Office of the Attorney General (AGO)** assumed 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** and the **Department of Social Services** each assume no fiscal impact to their agencies from this proposal.

§§302.065, 452.556 and 516.140 - Changes the laws regarding judicial procedures

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

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

In response a previous version, 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

ASSUMPTION (continued)

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.

In response to a previous version, officials from the **Department of Revenue (DOR)** assumed 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

ASSUMPTION (continued)

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.

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.

§453.700 - Changes the laws regarding adoption

Officials from the **Department of Social Services (DSS) - Children's Division (CD)** assume §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.

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

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 Prol (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.

Officials at the **Department of Health and Senior Services** assume no fiscal impact from this proposal.

In response to a previous version, officials from the **Office of Prosecution Services** assumed the proposal would not fiscally impact their agency.

§455.007 - Judicial procedures

Officials at the **Department of Corrections** were 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.

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

In response to a previous version, officials from the **Attorney General's Office (AGO)** assumed that any potential costs arising from this proposal can be absorbed with existing resources. AGO

ASSUMPTION (continued)

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.

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

In response to a previous version, officials from the **Attorney General's Office (AGO)** assumed 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.

§456.950 - Qualified Spouse Trusts

In response to a previous version, officials at the **Office of the Attorney General (AGO)** assumed 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 **Department of Insurance, Financial Institutions and Professional Registration** assume no fiscal impact from this proposal.

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

Officials at the **Department of Revenue** assume no fiscal impact from this proposal.

§478.320 - 21st Judicial Circuit

Officials at the **Office of the State Courts Administrator** assume this section of the proposed legislation removes the use of the annual Judicial Weighted Workload model in calculating the

ASSUMPTION (continued)

need for full-time judicial positions. There may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

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

Officials at **Christian County** welcome the possibility of having a Circuit Judge exclusively for Christian County. By having a full time judge, their county could experience some relief from the heavy work load and the overcrowding in the jail. The cost analysis is based on the current budget of the operational costs for the 38th Circuit Court Judge. An additional judge for Christian County would cost approximately \$95,000.

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

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

ASSUMPTION (continued)

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).

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

SCS for 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

SCS for 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.

In response to a previous version, officials at **St. Louis County** assumed no fiscal impact from this proposal.

§478.464 - 16th Judicial Circuit

Officials at the **Office of the State Courts Administrator** assume this section of the legislation modifies language for the sixteenth judicial circuit. There may be some impact, but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

§§478.513 and 478.600 - 31st and 11th Judicial Circuits

Officials at the **Office of the State Courts Administrator** assume these sections of the legislation allow for additional associate circuit judges in the thirty-first and eleventh judicial circuit. Currently there is funding for half year FY15 according to the JudWWL for the 38th Circuit, 31st Circuit, 16th Circuit, 11th Circuit and 21st Circuit. These sections become effective January 1, 2015. The total cost is \$598,535 for FY15. Additional funding will be requested for FY16 and will be reflected in that budget request.

§478.610 - Judges in the 13th judicial circuit

Officials from the **Office of the State Courts Administrator** assume 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.

§483.140 - Maintaining the rolls and records of the court

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

ASSUMPTION (continued)

\$488.026 - \$4 surcharge to be assessed to PACARS

Officials from the **Office of the State Courts Administrator** state this section 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
FY 13	<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%.

§488.2206 Thirty-First Judicial Circuit Surcharge

Officials at the **Office of the State Courts Administrator** assume this section of the proposed legislation modifies provisions of law relating to court costs. There may be some impact, but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

§488.2245 - City of Florissant may charge court cost for upkeep of courthouse

Officials from the **Office of the State Courts Administrator** assume the proposed legislation allows the City of Florissant to charge an additional \$10 court cost for upkeep of the municipal courthouse.

During the past year, there were 32,080 municipal ordinance violations files. The city may provide for additional court cost in an amount up to ten dollars per case for each municipal ordinance violation case. Based on the maximum \$10 court cost and average collection rate of 80%, the projected maximum increase would be \$256,640. The projected increase would be an increase of unknown to \$256,640.

ASSUMPTION (continued)

§516.350 - Allows liens of judgments to be revived

In response to a previous version, officials at the **Office of the Attorney General (AGO)** assumed 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** assume no fiscal impact from this proposal.

In response to a previous version, officials at the **Office of Prosecution Services** assumed no fiscal impact to their agency from this proposal.

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

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.

In response to a previous version, officials from the **Attorney General's Office (AGO)** assumed 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 a previous version, 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 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

ASSUMPTION (continued)

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 **Department of Social Services** and the **Joint Committee on Administrative Rules** each assume the proposal would not fiscally impact their respective agencies.

In response to a previous version, officials at the **Office of the Governor** assumed no fiscal impact from this proposal.

§537.602 - Limited civil immunity

In response to a previous version, officials at the **Office of the Attorney General (AGO)** assumed 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**, the **Office of Administration** and the **Department of Conservation** each assume no fiscal impact to their respective agencies from this proposal.

In response to a previous version, officials at the **Missouri Department of Transportation** and the **Office of the State Public Defenders** each assumed no fiscal impact to their respective agencies from this proposal.

In response to a previous version, officials at **Cole County**, **St. Louis County** and the **Platte County Board of Election Commission** each assumed no fiscal impact from this proposal.

ASSUMPTION (continued)

§574.160 - Prohibits protest activities at funeral services

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 at the **Department of Public Safety - Missouri Highway Patrol**, the **Office of Prosecution Services** and the **Office of the State Courts Administrator** each assume no fiscal impact to their respective agencies from this proposal.

§632.520 - Criminal penalties for acts of violence

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.

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 a previous version, officials from the **Office of Attorney General (AGO)** assumed 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.

In response to a previous version, officials from the **Department of Mental Health (DMH)** stated 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 **Office of Prosecution Services**, the **Department of Public Safety (DPS) - Missouri State Highway Patrol** and the **OA - Facilities Management, Design and Construction** each assume the proposal would not fiscally impact their respective agencies.

ASSUMPTION (continued)

§650.120 - Internet Cyber Crime

Officials at the **Department of Public Safety's Missouri Highway Patrol** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

In response to similar legislation (HB 1448), officials from the **Department of Social Services** stated their State Technical Assistance Team (STAT) is a recipient of a grant under the Cyber Crime Investigative Fund Grant Program, for which in FY 2014, we received \$76,420.28, which is used to train employees in advanced high technology forensic investigative techniques, as well as purchase software, equipment and supplies for conducting high tech children's events investigations. Loss of this grant funding would have a negative impact in the above listed areas, which could also be reflected in the ability to protect Missouri children from high tech predators. As the grant funds are above and beyond STAT's budget, there is no fiscal impact.

In response to similar legislation (HB 1448), officials from the **Columbia Police Department** and the **Cole County Sheriff's Department** each assumed the proposal would not fiscally impact their respective agencies.

In response to a similar bill from 2013 (HB 299), officials from the **Springfield Police Department** stated the proposal would result in savings of roughly \$39,000 to their agency for proceeds spent on overtime, training, license renewals, covert internet service and internet aircard.

In response to a similar proposal from 2012 (HB 1750), officials from the **Boone County Sheriff's Office** stated they currently receive funding for two detectives, equipment, training and overtime for their Cyber Crimes Unit. 2011's grant provided \$173,300. 2012's grant totals \$153,305 in funding. With these grants, the Sheriff's Office does not then have to come from the department's general budget. It is not known whether Boone County would be able to cover the loss of these funds to continue to employ two of the Cyber Crimes Unit detectives and/or keep the unit operational.

Oversight completed a sunset review of the program in 2011. Below is information Oversight compiled during that sunset review:

Beginning with fiscal year 2010 and each subsequent year, the General Assembly was to appropriate three million dollars to the Cyber Crime Investigation Fund to fund the program;

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ASSUMPTION (continued)

however, this appropriation is removed in this bill. The Department of Public Safety administers the fund.

State funding of the Internet Cyber Crime Grant (ICCG) program began in Fiscal Year 2007 and lasted for three years. The program was funded through the state's General Revenue Fund and expenditures in the program for those three years were:

1. \$ 184,558 in FY 2007 (2007 ICCG);
2. \$1,025,285 in FY 2008 (2008 ICCG); and
3. \$1,357,748 in FY 2009 (2009 ICCG).

In 2009, the American Recovery and Reinvestment Act (ARRA), commonly known as the federal stimulus program, was signed into law which provided additional funding to the Edward Byrne Memorial Justice Assistance Grant (JAG) for state and local law enforcement agencies. In 2010, DPS stopped funding the ICCG program and started a very similar program funded with federal stimulus funds and named the new program the Multi-Jurisdictional Cyber Crime Grant Program (MJCCG) to distinguish it from the ICCG. For the past five years, all Missouri cyber crime grants have been awarded under the MJCCG program. Federal funding of the MJCCG began in State Fiscal Year 2010 and lasted into FY 2014. Expenditures/awards in the program for those years are:

4. \$1,407,009 of expenditures in FY 2010 (2009 MJCCG);
5. \$1,419,768 of awards in FY 2011 (2010 MJCCG); and
6. \$1,516,699 of awards in FY 2012 (2011 MJCCG).

ASSUMPTION (continued)

Program Year	Program	Contract Period	Grantees	Award	Funding Source
2007	ICCG	7/1/06 - 6/30/07	11	\$242,388	General Revenue
2008	ICCG	7/1/07 - 5/31/08	15	\$1,208,527	General Revenue
2009	ICCG	6/1/08 - 5/31/09	15	\$1,455,398	General Revenue
2009	MJCCG	6/1/09 - 6/30/10	13	\$1,499,597	ARRA
2010	MJCCG	7/1/10 - 6/30/11	14	\$1,419,768	ARRA
2011	MJCCG	7/1/11 - 6/30/12	14	\$1,516,699	ARRA

This table shows the various task forces throughout the state that received funding in a recent fiscal year (FY 2011) through the federal program (MJCCG).

	Task Force	Project Title	Requested Funding	Award
1	Boone County, Cyber Task Force	Boone County Sheriff's Department Cyber Crimes Task Force	\$204,378	\$152,305
2	Clayton, RCCEEG	Regional Computer Crime Education & Enforcement Group	\$139,655	\$138,802
3	Dent County, Cyber Task Force	South Central Missouri Computer Crime Task Force	\$44,186	\$44,186
4	Independence, Cyber Unit	Northeastern Jackson County Cyber Crimes Working Group Against Internet Crime	\$138,851	\$121,092
5	Joplin, Cyber Task Force	Southwestern Missouri Cyber Crime Task Force	\$177,586	\$177,182
6	Kirksville, Cyber Task Force	Kirksville Regional Computer Crimes Unit	\$59,742	\$59,742
7	Missouri Department of Social Services, STAT	Operation Cyber-Safe	\$97,362	\$84,512
8	Missouri State Highway Patrol, Cyber Crime Unit	Computer Forensic Unit	\$42,057	\$31,989

9	Platte County, PCMEG	Western Missouri Cyber Crimes Task Force	\$423,006	\$202,677
10	Poplar Bluff, SEMO Cyber Unit	SEMO Cyber Crimes Task Force	\$129,215	\$105,206
11	Springfield, Cyber Crime Task Force	2012 Internet Cyber Crime Initiative	\$237,582	\$73,748
12	St Charles County, Cyber Task Force	St. Charles County Internet Crimes Against Children	\$191,584	\$190,864
13	St. Louis County, Cyber Task Force	2011 MJCCG - Special Investigations Personnel Upgrade	\$181,622	\$63,746
14	Stone County, Tri-Lakes Cyber Task Force	Tri-Lakes Regional Internet Crimes Task Force	\$93,490	\$70,646
	Total Funding		\$2,160,318	\$1,516,698

Oversight assumes the federal stimulus funding for this program is exhausted. Therefore, Oversight will assume an annual cost to the General Revenue Fund to continue this program in FY 2015 and beyond. The Department of Public Safety is allowed to retain up to three percent of the funding for administrative expenses.

This proposal removes the sunset provision and extends the expiration date to 2024. It also removes the \$3 million appropriation from the section. Therefore, Oversight will assume an annual appropriation of roughly \$1.4 million (average of Fiscal Years 2008 - 2011) will be used to fund this program.

Two state agencies (Missouri Highway Patrol and the Department of Social Services) have previously received funding through this program. Therefore, Oversight will show potentially not all of the appropriation being distributed to local political subdivisions (some of the money could be granted to state agencies that work in this field and Department of Public Safety - Director's Office could retain a percentage for administrative expenses).

Officials from the Buchanan County Sheriff's Department and the St. Louis County Department of Justice did not respond to our request for fiscal impact.

Bill as a Whole

In response to a previous version, officials at the **Office of State Public Defender (SPD)** stated for the purpose of the proposed legislation, the SPD cannot assume existing staff will provide competent, effective representation for any new cases where indigent persons are charged with

ASSUMPTION (continued)

the proposed new crimes of knowingly committing violence to an employee of the Department of Mental Health 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 Department of Mental Health. Violation of this new subsection would become a new class C felony.

In addition, a new crime of unlawful funeral protest would become a new class B misdemeanor. If this is a second or subsequent offense, the charge would be escalated to a new class A misdemeanor. Also, the legislation proposes a new crime of knowingly or intentionally violating the adoption laws of this state, a new class A misdemeanor.

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

Officials at the **Springfield Police Department** assume no fiscal impact from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
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GENERAL REVENUE

<u>Transfer Out</u> - to Joint Contingency Fund (\$21.880) - for expenses associated with Joint Committee on Judiciary and Justice	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
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<u>Transfer Out</u> - to the Cyber Crime Investigation Fund - to continue the Internet Cyber Crime Grant Program (\$650.120)	(\$1,400,000)	(\$1,400,000)	(\$1,400,000)
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<u>Savings</u> - 21st Judicial Circuit - from proposal to replace positions (§§478.437, 478.740)	\$117,987	\$235,974	\$235,974
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<u>Costs</u> - 38th Judicial Circuit - from proposal to replace positions (§§478.437, 478.740)	(\$25,415)	(\$50,829)	(\$50,829)
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<u>FISCAL IMPACT - State Government</u> (continued)	FY 2015 (10 Mo.)	FY 2016	FY 2017
<u>Savings - OA-GS (\$632.520)</u>			
Reduction in workers' compensation program costs ; Damage of Mental Health Facility	Unknown	Unknown	Unknown
<u>Costs - DOC (\$632.520)</u>			
Incarceration and probation costs; Damage of Mental Health Facility	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)
<u>Costs - Office of the State Courts</u>			
Administrator - salary and fringe for 1 Commissioner (\$478.610)	<u>\$0 to (\$207,548)</u>	<u>\$0 to (\$207,548)</u>	<u>\$0 to (\$207,548)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Less than \$1,714,976)</u>	<u>(Less than \$1,522,403)</u>	<u>(Less than \$1,522,403)</u>
PACARS FUND			
<u>Revenue - \$4 Fine Collection Center Surcharge (§§56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 488.026, 56.850, 56.860)</u>			
	<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>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2015 (10 Mo.)	FY 2016	FY 2017
JOINT CONTINGENCY FUND			
Transfer-in from General Revenue Fund			
Transfer-in to cover expenses of the Joint Committee on Judiciary and Justice (\$21.880)	Could exceed \$100,000	Could exceed \$100,000	Could exceed \$100,000
Costs - Expenses of Joint Committee on Judiciary and Justice (\$21.880)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)
ESTIMATED NET EFFECT ON THE JOINT CONTINGENCY FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
CYBER CRIME INVESTIGATION			
<u>Transfer In</u> - from the General Revenue Fund (\$650.120)	\$1,400,000	\$1,400,000	\$1,400,000
<u>Costs</u> - Department of Public Safety is allowed to retain up to 3% of funding for administrative expenses (\$650.120)	(Up to \$42,000)	(Up to \$42,000)	(Up to \$42,000)
<u>Costs</u> - grants to multi jurisdictional internet cyber crime law enforcement task forces (\$650.120)	(At least <u>\$1,358,000</u>)	(At least <u>\$1,358,000</u>)	(At least <u>\$1,358,000</u>)
ESTIMATED NET EFFECT TO THE CYBER CRIME INVESTIGATION	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Local Government FY 2015 FY 2016 FY 2017
(10 Mo.)

LOCAL POLITICAL SUBDIVISIONS

<u>Revenue</u> - City of Florissant - additional court fees §488.2245	Unknown to \$256,640	Unknown to \$256,640	Unknown to \$256,640
<u>Income</u> - grants from the Missouri Department of Public Safety for the Internet Cyber Crime Grant program (§650.120)	Up to \$1,400,000	Up to \$1,400,000	Up to \$1,400,000

<u>Costs</u> - Counties			
Increased PACARS contribution §§56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 488.026, 56.850, 56.860	(\$147,770)	(\$177,324)	(\$177,324)

ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Unknown to \$1,508,870</u>	<u>Unknown to \$1,479,316</u>	<u>Unknown to \$1,479,316</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

§21.880

The proposal creates a permanent Joint Committee on Judiciary and Justice.

§§56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 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:

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FISCAL DESCRIPTION (continued)

- (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 appointed for Christian County.

§478.610

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

§488.2245

This bill allows the City of Florissant to impose an additional court cost of up to \$10 for each

FISCAL DESCRIPTION (continued)

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.

§650.120

This bill specifies that when a special prosecutor is appointed in any case, he or she may not be otherwise employed by a party other than the State of Missouri in any criminal case or proceeding in that circuit for the duration of that appointment and must be considered an appointed prosecutor for purposes of Section 56.360, RSMo. The presiding judge is authorized to assign a judge to hear the trial of a felony case when he or she has previously conducted the preliminary hearing in that case if the defendant has signed a written waiver permitting the same judge to hear both the preliminary hearing and the trial. The bill authorizes the 13th Judicial Circuit to appoint or retain a commissioner pursuant to Section 478.003. The bill adds the executive director of the Missouri office of prosecution services, or his or her designee, to those individuals on the panel in the Department of Public Safety that awards grants to law enforcement agencies that are investigating internet sex crimes against children. The bill adds assistant prosecuting and circuit attorneys to the list of individuals who are eligible to have their salaries paid through the grant. In any case in which the defendant is acquitted or in which a person must be committed or recognized to answer for a felony and no indictment is issued against the person, the costs must be paid by the state. The bill repeals the provision that requires the prosecutor or the person on whose oath the prosecution was commenced to be liable for all the court costs in any case where a person must be committed or recognized to answer for a felony and no indictment is issued against the person and prohibits the state or county from paying the costs in that type of case.

The provisions regarding Internet cyber crime law enforcement task forces and the Cyber Crime Investigation Fund expired on June 5, 2012. This bill extends these provisions to August 28, 2024 and removes appropriations for the fund.

FISCAL DESCRIPTION (continued)

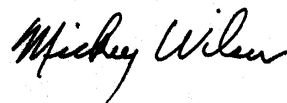
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Conservation
Department of Corrections
Department of Economic Development
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Public Safety -
 Missouri State Highway Patrol
Department of Revenue
Department of Social Services
 Children's Division
 Division of Legal Services
Joint Committee on Administrative Rules
Joint Committee on Legislative Research
Joint Committee on Public Retirement
Missouri Department of Transportation
Office of Administration -
 Facilities Management, Design and Construction
 General Services Division
Office of Attorney General
Office of the Governor
Office of Prosecution Services
Office of the Secretary of State
Office of State Courts Administrator
Office of State Public Defender
Prosecuting and Circuit Attorney's Retirement System (PACARS)
Boone County Sheriff's Department
Christian County
Cole County
Cole County Sheriff's Department
Columbia Police Department
Platte County Board of Election Commission

SOURCES OF INFORMATION (continued)

Springfield Police Department
St. Louis County



Mickey Wilson, CPA
Director
May 12, 2014

Ross Strobe
Assistant Director
May 12, 2014