

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5551-02  
Bill No.: SB 787  
Subject: Crimes and Punishment; Criminal Procedure; Administrative Rules; Boards, Commissions, Committees, Councils  
Type: Original  
Date: March 10, 2014

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Bill Summary: This proposal creates the Capital Sentencing Procedures and Protocols Commission.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Corrections (DOC)** state this proposal creates an 11-member Capital Sentencing Procedures and Protocols commission who would:

- determine procedures and protocols for the administration of the death penalty once a warrant has been issued;
- make policy decisions regarding whether the death penalty should be administered;
- not have authority to disclose current or former members of an execution team;
- will meet quarterly during the first year of existence;
- shall no later than one year after the effective date of this legislation, draft and promulgate one or more administrative rules (e.g. drugs used by execution team,) establishing procedures and protocols for the administration of the death penalty;
- during second and proceeding years after establishment, meet annually to review, and if appropriate, update or amend any rules.

This legislation also states the death penalty shall not be administered until the commission has promulgated administrative rules as authorized by this section or until one year after the effective date of this legislation.

The fiscal impact of this legislation consists of at least calculating the cost (FY13 average \$18,014 per day) of the continued incarceration of offenders who may have been executed during the year in which the commission meets to establish procedures, protocols and rules relating to administration of the death penalty. Operationally, depending on the rules established by the commission, the department may have to revise existing procedures and protocols and retrain impacted staff on the new procedures and protocols and this cost is unknown. The current cost (\$32,146) to administer executions may also increase/decrease based on the procedures and protocols established by the commission.

DOC states the potential fiscal impact to their agency is unknown for each fiscal year.

**Oversight** assumes DOC's potential unknown cost regarding rulemaking of the execution of inmates is speculative, depending on the actions taken by the new commission. Therefore, Oversight will assume the proposal would not create a direct fiscal impact to the state.

ASSUMPTION (continued)

Officials from the **Attorney General's Office (AGO)** state the proposal creates a new commission and requires the Attorney General or his designee to serve on the new commission. The AGO assumes costs associated with the proposal could be absorbed with existing resources, but would seek additional appropriation if the demands of serving on the new commission exceed expectations.

According to officials from the **Office of the Secretary of State (SOS)**, 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 **Office of the Governor, Missouri Senate, Joint Committee on Legislative Research - Oversight Division, Office of the State Public Defender, Office of the State Courts Administrator, and Joint Committee on Administrative Rules** each assume the proposed legislation has no fiscal impact on their respective agencies beyond existing appropriations.

Officials from the Office of Prosecution Services did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2015	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation appears to have no direct fiscal impact.

The proposal has an emergency clause.

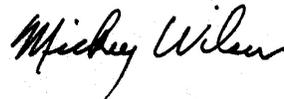
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections  
Attorney General's Office  
Office of the State Public Defender  
Office of the State Courts Administrator  
Office of the Governor  
Missouri Senate  
Legislative Research - Oversight Division  
Office of the Secretary of State  
Joint Committee on Administrative Rules

**Not Responding:**

Office of Prosecution Services



Mickey Wilson, CPA  
Director  
March 10, 2014

Ross Strobe  
Assistant Director  
March 10, 2014