

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0159-01
Bill No.: SB 200
Subject: Courts; Crimes and Punishment; Criminal Procedure
Type: Original
Date: February 9, 2015

Bill Summary: This proposal modifies provisions related to first degree murder.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(\$409,340 to \$519,340)	(\$302,247 to \$512,247)	(\$0 to \$306,745)
Total Estimated Net Effect on General Revenue	(\$409,340 to \$519,340)	(\$302,247 to \$512,247)	(\$0 to \$306,745)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	0 to 4 FTE	0 to 4 FTE	0 to 4 FTE
Total Estimated Net Effect on FTE	0 to 4 FTE	0 to 4 FTE	0 to 4 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

In response to similar legislation from this year (SB 280 and HB 156), officials at the Office of the State Public Defender (MSPD) assume there are 84 juveniles currently serving life without parole. This legislation appears to give them an automatic right to a new sentencing hearing upon request if their case isn't final for purposes of appeal. MSPD estimates 5 of the 84 cases would be eligible under this proposed legislation. MSPD would incur a minimum of \$15,000 times 5 cases for litigation costs. Plus MSPD would have to contract out these 5 cases to private attorneys for the sentencing phase at a cost of approximately \$5,000 per case.

The 84 will be new cases requiring expert witnesses to appear during the sentencing hearing at an estimated cost of \$2,000 per case. Since this is a temporary increase in caseload, MSPD would contract the 84 cases to private counsel. Each case would cost approximately \$3,000 for the sentencing phase only. MSPD has split this one-time cost over the next two fiscal years, as it is uncertain as to when the 84 inmates will file the required petition for a new hearing.

Assuming the MSPD provides representation in just 5 juvenile Murder 1st cases per year. The RubinBrown weight we used in our Budget Request was 85.9 for non-capital homicide, without taking into account travel or court time. Assuming an attorney can provide representation in just 3 of these types of cases per year, that is 693.3 hours (2080 / 3), which is 1.5 attorneys (3,035.5 / 2,080). At 3 cases per year, it would require an additional 1.5 attorneys. Plus, these estimated 5 new cases would also require at least \$15,000 of litigation costs.

In summary, the MSPD assumes a cost of \$420,000 (84 cases * \$2,000 for expert witnesses = \$168,000) plus (84 cases * \$3,000 for private counsel for sentencing phase = \$252,000). The total cost (\$168,000 + \$252,000 = \$420,000) would be split over two years.

Oversight has reduced the FTE Assistant Public Defender from 1.5 FTE to 1.0 FTE.

ASSUMPTION (continued)

MSPD was not able to provide a response to Oversight's request for fiscal impact due to the short fiscal note request time. Using similar legislation filed this year on similar subjects (SB 280 and HB 156), **Oversight** will assume a range of costs for this proposals. The following is a list of costs for the period of this fiscal note:

FY 2016 costs will be (\$409,340 to \$519,340)

FY 2017 costs will be (\$302,247 to \$512,247)

FY 2018 costs will be (\$0 to \$306,745)

Oversight will also assume a range in FTEs between 0 to 4 FTEs per year for this fiscal note period.

Officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Department of Mental Health**, the **Department of Corrections**, 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.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE			
Costs - Office of the State Public Defender			
Personal Service	(\$132,828)	(\$134,156)	(\$135,498)
Fringe Benefits	(\$69,077)	(\$69,768)	(\$70,466)
Equipment and Expense of 4 FTEs	(\$32,435)	(\$21,448)	(\$21,984)
One Time Litigation Costs	(\$75,000 to \$84,000)	(\$0 to \$84,000)	\$0
One Time Contract Counsel Costs	(\$25,000 to \$126,000)	(\$0 to \$126,000)	\$0
On Going Litigation Costs	(\$75,000)	(\$76,875)	(\$78,797)
Total Costs - MSPD	(\$409,340 to \$519,340)	(\$302,247 to \$512,247)	(\$0 to \$306,745)
FTE Change - MSPD	0 to 4 FTE	0 to 4 FTE	0 to 4 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(\$409,340 to \$519,340)	(\$302,247 to \$512,247)	(\$0 to \$306,745)
Estimated Net FTE Change for the General Revenue Fund	0 to 4 FTE	0 to 4 FTE	0 to 4 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<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

Under current law, offenders who were under the age of 18 at the time they committed first degree murder must be sentenced to life imprisonment without eligibility for probation, parole, or conditional release. In June of 2013, the U.S. Supreme Court in Miller v. Alabama held that mandatory life sentences without parole for juvenile criminal offenders are unconstitutional. As

FISCAL DESCRIPTION (continued)

a result, there is no punishment for first degree murder under current law in Missouri that is enforceable against those who committed murder before they turned 18.

This act repeals the mandatory life sentence found to be unconstitutional in *Miller v. Alabama*. Under this act, a person who was 16 or 17 years old at the time of the crime may be sentenced to either imprisonment for at least 50 years or life imprisonment without parole. A person who was under the age of 16 may be sentenced to imprisonment for at least 35 years or life without parole.

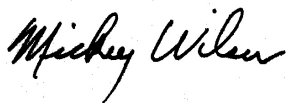
Any person who was sentenced to life imprisonment without parole for a crime committed before the person turned 18 whose case is not final for purposes of appeal may, within six months of the effective date of the act, file a motion with the sentencing court for a review of the person's sentence. This act specifies that the new procedures for juvenile first degree murderers do not apply to cases that are final for purposes of appeal. The offense of murder in the first degree was added to the definition of "dangerous felony".

This act repeals obsolete provisions stating that certain trials are to proceed in a single stage. Other technical changes were made in this act to make the provisions align with amendments to the criminal code in SB 491 (2014). This act contains an emergency clause for the provisions regarding the penalty for first degree murder.

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

Office of the Attorney General
Department of Corrections
Office of the State Courts Administrator
Office of Prosecution Services
Department of Mental Health



Mickey Wilson, CPA

Ross Strobe

L.R. No. 0159-01
Bill No. SB 200
Page 7 of 7
February 9, 2015

Director
February 9, 2015

Assistant Director
February 9, 2015