

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4323-06
Bill No.: HCS for SS #2 for SCS for SB 590
Subject: Courts; Crimes and Punishment; Criminal Procedure
Type: Original
Date: May 10, 2016

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on FTE	0	0	0

☐ 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 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

In response to a previous version, officials at the **Department of Corrections (DOC)** assumed that Section 565.033 Subsection 3 (1) states that any person who has been found guilty of murder in the first degree, and who was sixteen years of age or older and under the age of eighteen at the time of the commission of the offense, and who was sentenced to life without eligibility for probation or parole, or release except by act of the governor prior to June 25, 2012, shall be eligible for a parole hearing after having served 50 years. Subsection 3 (2) states any person who has been found guilty of murder in the first degree, and who was under the age of sixteen at the time of the commission of the offense, and who was sentenced to life without eligibility for probation or parole, or release except by act of the governor prior to June 25, 2012, shall be eligible for a parole hearing after having served thirty-five years.

It is assumed that re-sentencing will occur, as the US Supreme Court has ruled that sentencing offenders who were under 18 to life without parole is cruel and inhumane punishment.

There are currently incarcerated 91 offenders convicted of Murder 1st degree who were less than 18 at the time of the offense, of whom 17 were under 16 at the time of the offense. There is one offender who will be eligible for release in FY21 and by the end of the 10 year budget forecast there will be 5 offenders eligible for release. Although the bill does not mandate a release after serving the minimum prison term, the Board of Probation and Parole does normally release dangerous felons after serving the 85% and it is projected that the offenders will be released after the minimum prison term is served.

The FY15 average cost of supervision is \$6.04 per offender per day or an annual cost of \$2,205 per offender. The DOC cost of incarceration is \$16.809 per day or an annual cost of \$6,135 per offender. Therefore, FYs 17 through 20 will show a \$0 cost avoidance for the DOC. Starting in FY 21, DOC shows a cost avoidance starting at \$4,254 and will continue to increase to FY 26 where the cost avoidance will be \$23,484.

Oversight assumes the period covered by DOC goes beyond the period covered in this fiscal note and therefore, Oversight will only show the first three years for fiscal note purposes.

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

ASSUMPTION (continued)

Officials at the **Department of Social Services**, the **Department of Public Safety's Missouri Highway Patrol**, the **Office of the State Public Defender**, 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.

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

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<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 2012, the U.S. Supreme Court in *Miller v. Alabama* held that mandatory life sentences without parole for juvenile criminal offenders are unconstitutional. As 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.

ASSUMPTION (continued)

A person who was sentenced to life imprisonment without parole prior to June 25, 2012, is eligible for a parole hearing after serving 50 years if the person was 16 or 17 years old at the time of the offense or after serving 35 years if the person was under the age of 16 at the time of the offense.

The offense of murder in the first degree was added to the definition of "dangerous felony".

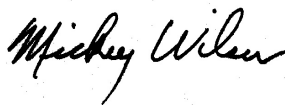
This act repeals obsolete provisions stating that certain trials are to proceed in a single stage. Other technical changes were made in this act to make the provisions align with amendments to the criminal code in SB 491 (2014).

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 State Public Defender
Office of the Attorney General
Office of the State Courts Administrator
Department of Corrections
Department of Mental Health
Department of Social Services
Office of Prosecution Services
Department of Public Safety
Missouri Highway Patrol



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