

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4323-06
Bill No.: Truly Agreed To and Finally Passed HCS for SS #2 for SCS for SB 590
Subject: Courts; Crimes and Punishment; Criminal Procedure
Type: Original
Date: June 15, 2016

Bill Summary: This proposal modifies provisions related to crime.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | | |
|--|--------------------|--------------------|--------------------|--------------------------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 | Fully Implemented (FY 2025) |
| General Revenue | (\$731,387) | (\$464,892) | (\$464,275) | (\$393,452) |
| Total Estimated Net Effect on General Revenue | (\$731,387) | (\$464,892) | (\$464,275) | (\$393,452) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | | |
|---|------------|------------|------------|--------------------------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 | Fully Implemented (FY 2025) |
| | | | | |
| | | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 | \$0 |

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

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | | |
|---|------------|------------|------------|--------------------------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 | Fully Implemented (FY 2025) |
| | | | | |
| | | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | | |
|---|--------------|--------------|--------------|--------------------------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 | Fully Implemented (FY 2025) |
| General Revenue | 5 FTE | 5 FTE | 5 FTE | 5 FTE |
| | | | | |
| Total Estimated Net Effect on FTE | 5 FTE | 5 FTE | 5 FTE | 5 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 2017 | FY 2018 | FY 2019 | Fully Implemented (FY 2025) |
| Local Government | \$0 | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

\$558,047

Officials at the **Office of the State Public Defender (SPD)** assume there are approximately 84 juveniles currently serving life without parole (LWOP). This legislation entitles them to a parole hearing once they serve 25 years. The SPD estimates 28 of the 84 cases would be eligible in FY 2017 under this proposed legislation. The SPD would incur a minimum of \$15,000 times 28 cases for litigation costs ($\$15,000 \times 28 = \$420,000$). Plus, the SPD would provide attorneys for these 28 cases. Assuming each attorney can provide representation in 9 cases this first year, 3 new attorneys would be required. One new Legal Assistant and one new Mitigation Specialist would also be required.

The SPD also will provide representation to the remaining 56 juveniles already serving life without parole both at their parole hearings as they become eligible and constitutional challenges to the legislation. The same will be done for juveniles sentenced to life without parole in the future. The SPD would assume 7 cases for the next 3 fiscal years.

In summary the cost for 5 new FTE would be as follows:

FY 17 \$731,387
FY 18 \$464,892
FY 19 \$468,364
FY 25 \$490,149 (fully implemented)

Oversight assumes the 56 cases, using SPD's assumption of 7 cases per year, would be concluded in FY 2025. Therefore, Oversight will reflect cost through FY 19 with full implementation in FY 2025. Oversight inquired SPD further about the proposal and was informed that because of a change in policy at SPD, cost would be reflected for this proposal.

Officials at the **Department of Corrections (DOC)** assume the net impact of this bill involves juvenile offenders who have been charged with Murder I. The options it outlines for sentencing are: to serve without parole, to be granted parole after 30 to 40 years, or to serve without parole eligibility. Long term implications for offenders sentenced in the future will not have an impact on the budget horizon of the DOC because they will serve more than 10 years before parole eligibility. However, current offenders may qualify for parole eligibility under these proposed statutes. If a juvenile offender's life without parole sentence is overturned, then the parole board will review the sentence after 25 years. If time served of 30 to 40 years is considered to be reasonable punishment, then the board may release juvenile offenders sentenced prior to August 28, 2016 after serving from 30 to 40 years. For the purpose of fiscal impact the expected time served is 35 years.

ASSUMPTION (continued)

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. The DOC would assume this legislation will result in long term cost avoidance of \$0 in FY 17 and FY 18, \$4,089 in FY 19 and full implementation in FY 25 of \$96,697.

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.

Officials at the **Department of Social Services**, the **Department of Public Safety's Missouri Highway Patrol**, the **Office of the State Courts Administrator**, the **Department of Mental Health** 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 2017 (10 Mo.) | FY 2018 | FY 2019 | Fully Implemented (FY 2025) |
|--|---------------------------|---------------------------|---------------------------|-----------------------------------|
| GENERAL REVENUE | | | | |
| <u>Cost Avoidance - DOC</u> (§§558.047, 565.033) | \$0 | \$0 | \$4,089 | \$96,697 |
| <u>Cost - SPD</u> (§§558.047, 565.033) | | | | |
| Salaries | (\$184,200) | (\$223,250) | (\$225,483) | (\$239,355) |
| Fringe Benefits | (\$92,373) | (\$111,452) | (\$112,062) | (\$115,852) |
| Equipment and Expense | (\$34,814) | (\$25,189) | (\$25,819) | (\$29,942) |
| One Time Litigation 28 LWOP | (\$420,000) | \$0 | \$0 | \$0 |
| 7 additional cases each year | \$0 | (\$105,000) | (\$105,000) | (\$105,000) |
| <u>Total Cost - SPD</u> | <u>(\$731,387)</u> | <u>(\$464,892)</u> | <u>(\$468,364)</u> | <u>(\$490,149)</u> |
| FTE Change | 5 FTE | 5 FTE | 5 FTE | 5 FTE |
| ESTIMATED NET EFFECT ON GENERAL REVENUE | <u>(\$731,387)</u> | <u>(\$464,892)</u> | <u>(\$464,275)</u> | <u>(\$393,452)</u> |
| Estimated Net FTE Change for General Revenue Fund | 5 FTE | 5 FTE | 5 FTE | 5 FTE |

FISCAL IMPACT - Local
Government

| FY 2017 (10 Mo.) | FY 2018 | FY 2019 | Fully Implemented (FY 2025) |
|---------------------|------------|------------|-----------------------------------|
| <u>\$0</u> | <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 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 under the age of 18 at the time of the first degree murder may be sentenced to life without eligibility for parole, life with eligibility for parole, or a term of imprisonment at least 30 years and not more than 40 years. A list of factors for the judge or jury to consider when assessing punishment is provided.

This act establishes procedures for when a prosecutor intends to seek a sentence of life without parole. A person found guilty of murder in the first degree who was under the age of 18 at the time of the offense is eligible for a sentence of life without parole only if a unanimous jury, or a judge in a jury-waived sentencing, finds beyond a reasonable doubt that the defendant personally inflicted the injury that caused the death of the victim and at least one of an enumerated list of aggravating factors exists.

A person who was sentenced to life imprisonment without parole prior to August 28, 2016 for a crime committed before the person turned 18 years of age is eligible for a parole hearing after serving 25 years. A person who was sentenced on or after August 28, 2016 to any term of imprisonment except life without parole for an offense of first degree murder committed before the person turned 18 years old is eligible for a parole hearing after serving 25 years and is eligible for another hearing after serving 35 years. This act specifies the factors that the parole board must consider at the hearings.

FISCAL DESCRIPTION (continued)

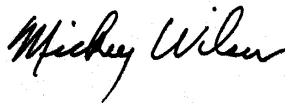
These provisions have an emergency clause.

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 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



Mickey Wilson, CPA
Director
June 15, 2016

Ross Strobe
Assistant Director
June 15, 2016