

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4336-10
Bill No.: HCS for SS for SCS for SB 663 with HCA 15
Subject: Alcohol; Courts; Crimes and Punishment; Criminal Procedure
Type: Original
Date: May 11, 2016

Bill Summary: This proposal relates to the administration of justice.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2021)
General Revenue	(Could exceed \$390,593)	(Could exceed \$4,141,770)	(Could exceed \$5,063,916)	(Could exceed \$6,100,224)
Total Estimated Net Effect on General Revenue	(Could exceed \$390,593)	(Could exceed \$4,141,770)	(Could exceed \$5,063,916)	(Could exceed \$6,100,224)

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 29 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2020)
Highway Funds	Less than \$100,000	Less than \$100,000	Less than \$100,000	Less than \$100,000
Statewide Court Automation	\$0	\$0	\$4,166,667	\$5,000,000
Basic Civil Legal Services	\$0	\$0	\$1,450,000	\$2,900,000
Total Estimated Net Effect on <u>Other</u> State Funds	Less than \$100,000	Less than \$100,000	More than \$5,616,667	More than \$7,900,000

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2020)
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 2021)
General Revenue	1 FTE	23 FTE	29 FTE	35 FTE
Total Estimated Net Effect on FTE	1 FTE	23 FTE	29 FTE	35 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 2020)
Local Government	Could exceed \$100,000	Could exceed \$100,000	Could exceed \$100,000	Could exceed \$100,000

FISCAL ANALYSIS

ASSUMPTION

§57.111 - Sheriffs responding to adjoining county:

In response to a similar proposal from this year, SB 734, officials from the **Department of Public Safety - Missouri Highway Patrol** and the **Boone County Sheriff's Department** each assumed the proposal would not fiscally impact their respective agencies.

In response to a similar proposal from 2015 (HB 218), officials from the **St. Louis County Police** assumed the proposal would not fiscally impact their agency.

§§192.2405, 192.2410, 192.2475, 565.188 - Mandatory reporters:

In response to a similar proposal (HB 2212), officials from the **Office of State Public Defender (SPD)** stated for the purpose of this proposed legislation, officials from the SPD cannot assume that existing staff will provide competent, effective representation for any new cases where indigent persons face penalties for failure to report elder abuse.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

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

In response to a similar proposal (HB 2212), officials from the **Department of Health and Senior Services**, the **Department of Corrections**, the **Missouri Office of Prosecution Services** and the **Office of State Courts Administrator** each assumed the proposal would not fiscally impact their respective agencies.

§198.070 Sexual assault reporting:

Oversight assumes the changes in this section will not create a fiscal impact.

§211.059 Required warnings to children:

Oversight assumes the changes in this section will not create a fiscal impact.

ASSUMPTION (continued)

§211.436 Restraints used on juveniles:

Oversight assumes the changes in this section will not create a fiscal impact.

§217.151 Restraints used on pregnant women:

In response to a similar bill (HB 2552), officials at the **Office of the State Courts Administrator** and the **Department of Corrections** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight assumes this proposal prohibits the use of restraints on children under the age of 17 and pregnant and post-partum offenders during court proceedings except in certain circumstances. Oversight assumes this is a change in policy and procedures during court proceedings and will have no direct fiscal impact.

§§217.360, 221.111 Two-way telecommunications in prisons

In response to a similar proposal from this year (HB 1837), officials from the **Department of Corrections, Office of the State Courts Administrator, Department of Public Safety - Missouri Highway Patrol**, and the **Office of the State Public Defender** each assumed the proposal would not fiscally impact their respective agencies.

In response to a similar proposal from this year (HB 1837), officials from the **Office of Prosecution Services** assumed the proposal would have no measurable fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Oversight assumes this section would have no fiscal impact.

§§217.670, 217.690 Parole hearings:

In response to a similar proposal from this year (HB 1585), officials from the **Department of Corrections (DOC)** stated there will be a cost avoidance for the 10 sites where we currently conduct video parole hearings because people will not have to travel to conduct an in-person hearing when the offender refuses to appear via video. The estimated projected cost avoidance includes the following:

ASSUMPTION (continued)

Average # of travel days due to offender refusing to appear via video:	6/month
Vehicle cost per travel day:	\$130
Hotel cost per travel day for 2 hearing panel members:	\$160
Meal cost per travel day for 2 hearing panel members:	\$100

FY 2017 total \$23,400 (10 months x 6 per month x (\$130 + \$160 + \$100))

FY 2018 total \$28,361 (full 12 months and add 1% inflation)

FY 2019 total \$28,644 (add 1% inflation)

§§302.440 - 302.535 Alcohol Monitoring:

In response to a similar version of the proposal, officials from the **Department of Revenue (DOR)** state the following:

- §302.440 - allows the court to order alcohol monitoring when a person is granted the employment exemption under §302.441.
- §302.441 - allows the citizen to apply to the court for an employment exemption variance of an ignition interlock device (IID). This would allow the citizen to operate an employer-owned vehicle for employment purposes without an IID installed. Exemptions shall not be granted for citizens that are self-employed or who wholly or partially own an entity that owns an employer-owned vehicle. A person that is granted the employment exemption variance shall not operate an employer-owned vehicle to transport persons under the age of 18 or vulnerable persons defined in §630.005.
- §302.535 - allows a person filing a petition for trial de novo for suspensions and revocations imposed pursuant to §302.525, to have the suspension or revocation stayed on their driving record. It also requires the DOR to issue the driver a temporary driving permit (TDP) until a final order is issued following the date of disposition of the petition for trial de novo.

DOR assumes their Drivers Licenses Bureau would have the following administrative impact:

With the proposed changes, 100% of de novo's would be stayed and, if the driver is otherwise eligible, the Department would be required to issue each driver a TDP. A Revenue Processing Tech I can process 46 court documents daily. In FY 2015, the Department received and processed 1,328 de novo petitions and outcomes (1,328/252= 5.26) under this statute. Since this legislation is allowing the suspension or revocation to be stayed, it could increase the volume of

ASSUMPTION (continued)

drivers who appeal their suspension or revocation. If the increase is so significant, additional FTE(s) will be requested through the appropriations process.

FY 2017 - Requires extensive programming and user acceptance testing of the Missouri Driver License System (MODL) to stay the suspension and revocation and evaluate the driver record to determine whether a driver is eligible to receive a TDP. A TDP can only be issued to Missouri licensed drivers, who are not otherwise suspended, revoked or denied.

Two Management Analysis Spec 1 - 360 hrs @ \$22 per hr x 2	\$15,840
Revenue Band Manager I - 160hrs @ \$26 per hr	= \$ 4,160
	\$20,000

Update webpage - Administrative Analyst III - 10 hrs @ \$23 per hour	\$230
Update forms - Management Analysis Spec I - 40 hours @ \$22 per hour	\$880
Update procedures - Management Analysis Spec I - 40 hours @ \$22 per hour	\$880
Total -	\$1990

DOR also assumes programming costs of \$51,921 in FY 2017 to implement these changes.

Oversight assumes DOR could absorb the additional time spent by existing employees to implement these changes, and will only reflect the ITSD charges from this proposal (\$51,921).

§304.351 Failure to Yield:

In response to a similar bill from this year (HB 1813), officials from the **Department of Revenue** assumed this would increase the penalties for any person who pleads guilty to or is found guilty of a failure to yield the right-of-way violation in which the offender is found to have caused serious injury or has caused a fatality. The court shall issue an order of suspension of the individual's driving privileges. In the event of a fatality, the proposed legislation would require the offender to complete a driver improvement program.

Administrative Impact:

Driver License Bureau (DLB):

DOR is unable to determine how many court ordered suspensions will be received to process. If the volume is so significant that it cannot be absorbed by existing staff, additional FTE(s) will be requested though the appropriations process.

ASSUMPTION (continued)

The proposed changes will require programming and user acceptance testing of the failure to yield the right-of-way suspensions when involving a fatality.

Two Management Analyst Specialist I - 80 hrs x 2 @ \$21 per hr = \$3,360

Update web page - Administrative Analyst III - 10 hrs @ \$23 = \$230
Update forms – Management Analysis Spec I - 40 hrs @ \$21 = \$840
Update procedures – Management Analysis Spec I - 40 hrs @ \$21 = \$840
Total = \$1,910

Total OA-ITSD Impact for FY `17 is 399.6 hours at \$75 per hour = \$29,970.

In summary, DOR assumed a cost of \$35,240 (\$3,360 + \$1,910 + \$29,970) in FY 2017 to provide for the implementation of the changes in this proposal.

DOR stated reinstatement fees collected is unknown. Fees collected will be distributed 75% Highway Funds, 15% Cities, and 10% Counties.

Since it is unknown how much additional revenue the reinstatement fees collected would produce, for fiscal note purposes only, **Oversight** will estimate revenue as: Less than \$100,000.

In response to a similar bill from this year (HB 1813), officials from the **Office of the State Courts Administrator** stated the proposed legislation would increase the fine for failure to yield the right-of-way. According to the Fine Collection Center, as well as the total number of charges, the net average for the past five years of failure to yield the right-of-way violations with a guilty disposition is 3,127. It is unknown how much additional revenue the increase in fines would produce.

Oversight notes since it is unknown how many of the 3,127 violations with guilty disposition resulted in injuries, serious injuries, or deaths, the amount of fine revenue will be reflected as: ‘Could exceed \$100,000.’ Oversight will assume the additional fine revenue will be distributed to local school districts.

In response to a similar bill from this year (HB 1813), officials from the **Department of Transportation, Department of Public Safety, Office of Prosecution Services and State Public Defender’s Office** each assumed the proposal will have no fiscal impact on their respective organizations.

ASSUMPTION (continued)

In response to a similar bill from this year (HB 1813), officials from the **City of Kansas City and St. Louis County** assumed the current proposal would not fiscally impact their local political subdivision.

§327.272 Land Surveyors:

In response to a similar proposal from this year (HB 2034), officials from the **Department of Insurance, Financial Institutions and Professional Registration** assumed the current proposal would not fiscally impact their agency.

§455.095 Electronic Monitoring:

In response to a similar proposal from this year (SB 678), officials at the **Department of Corrections (DOC)** assumed this proposal permits Courts to place an offender on "electronic monitoring (EM) with victim notification" as either part of a sentence, if a person is found guilty of violating the terms of an ex parte order, or to order it as a condition of release from custody before trial if a person is charged with that offense. "Electronic monitoring with victim notification" directs that alerts to be sent to "the protected person and the appropriate law enforcement agency" whenever the "monitored person is within a certain distance of the protected person or protected premises" as specified in the Court's order. As a condition of being considered for such electronic monitoring, the bill requires the offender to pay for the related costs and expenses of the EM. The bill does not expressly state who will be responsible for providing the electronic monitoring services.

The Division of Probation and Parole does not monitor individuals released prior to trial and would not be responsible for providing electronic monitoring for those individuals. It would be difficult for the DOC to assume responsibility for providing electronic monitoring with victim notification for the offenders who were convicted of violating the terms of an ex parte order. The DOC currently does not have a contract in place that would allow the Division of Probation and Parole to provide monitoring that would allow the victim to be alerted, either electronically or telephonically, from an individual hired by the division to advise when a perpetrator was near them in proximity. Additionally, DOC has no operating system in place to allow offenders to pay for EM services such as outlined in the legislation. Offenders currently pay Intervention Fees which allows for the division to place offenders on EM, place in a Residential Facility, or provide other services.

Therefore, the DOC assumes that, if it is the Court's intent to place these offenders on probation with an EM system that would allow victim notification of close proximity, the Court would

ASSUMPTION (continued)

have to contract through a vendor to provide this service, which would include an operating system to charge and collect fees related to this. In our opinion, this could only be accomplished through private probation, unsupervised probation, or Court Probation.

There could also be an issue for Probation and Parole as any records generated by EM would be considered confidential and privileged under §549.500 and 559.125 RSMo. The bill requires this information be shared with the “protected person” and directs that any information obtained via electronic monitoring must be shared between the DOC, the Highway Patrol, circuit courts and county and municipal law enforcement agencies. There is nothing protecting the information from further dissemination.

The fiscal impact of this legislation on the DOC would occur if offenders previously sentenced to probation supervision or incarceration by the DOC would now be under the supervision of the Court or private probation services. In FY14, 84 individuals received probation sentences for violations of protective orders that are supervised by the Department of Corrections, with an average probation sentence of 2.4 years. An additional eight individuals received term sentences averaging 3.3 years, but served only 10 months. This bill would make it possible to sentence these offenders to electronic monitoring with victim notification. However, the DOC assumes the 84 offenders currently sentenced to probation would not be sentenced to additional electronic monitoring.

Therefore, the fiscal impact would be to divert the eight incarcerated offenders per year to DOC probation or parole supervision. Electronic monitoring with victim notification would be provided by private probation. This has the potential to save the DOC funds on the cost of incarceration, but would be offset by DOC supervision costs and by private probation costs if offenders fail to pay the estimated \$14 per day per offender (\$40,800 per year) of electronic monitoring with victim notification. 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 assumes this legislation may result in a long term cost or a cost avoidance.

In summary, if the probationers pay all costs for 8 EM devices with victim notification which would result in 8 EMs in 2017, 16 in 2018 and 24 in 2019, this would result in a savings of \$19,383 in 2017, \$5,732 in 2018 and a loss of \$12,506 in 2019. If DOC pays all costs for the 8 EMs with victim notification, this would result in a loss of \$14,617 in 2017, \$77,500 in 2018 and \$139,851 in 2019.

Oversight assumes according to subsection 5 of the proposal that the related costs and

ASSUMPTION (continued)

expenditures of the electronic monitoring will be paid to the vendor by the person wearing the device. However, if indigent individuals are not responsible, the DOC could be held responsible and have a potential savings/costs in fiscal years 2017 and 2018 and costs in 2019. Oversight assumes the budgeted cost avoidance in DOC's response is a minimal amount, but will reflect this for the proposal.

In response to a similar proposal from this year (SB 678), officials at the **City of Independence** assumed this bill does not specify responsibility for monitoring and enforcement of the electronic monitoring systems. This can place increased financial hardship on municipalities if they are charged with or responsible for the enforcement of this statute. The bill includes provisions for financial reimbursement, however, indigent individuals which would include a large number of those covered under the bill, are not responsible. Additionally, collection of those fees now falls to the municipality.

In response to a similar proposal from this year (SB 678), officials at the **Office of the State Courts Administrator**, the **Department of Public Safety's Missouri Highway Patrol**, the **Department of Mental Health**, the **Department of Social Services**, the **Joint Committee on Administrative Rules**, the **Office of Prosecution Services** and the **Office of the State Public Defender** each assumed no fiscal impact to their respective agencies from this proposal.

In response to a similar proposal from this year (SB 678), officials at the **Boone County Sheriff's Department**, the **Cole County Sheriff's Department** and the **Springfield Police Department** each assumed no fiscal impact to their respective entities from this proposal.

§§476.055, 477.650 Extension of Statewide Court Automation Fund and Basic Civil Legal Services Fund:

In response to a similar proposal from this year (HCS for HB 2367), officials at the **Office of the State Courts Administrator** assumed this proposed legislation extends expiration dates for Statewide Court Automation Fund and the Basic Civil Legal Services Fund. Section 476.055 would extend the Statewide Court Automation fund until September 1, 2023. The fund is used for basic ongoing maintenance of the technological needs of the courts statewide and constitutes approximately 45 percent of our total automation expenditures, with the rest coming from general revenue. If the fund would be allowed to sunset in September 2018, the judiciary would anticipate a budget request for general revenue of approximately \$5 million and 34 FTE in fiscal 2019 and each year after that.

ASSUMPTION (continued)

Section 476.650 would extend the Basic Civil Legal Services fund to December 31, 2025. The funds are distributed to the four Federal Legal Services Corporations in the State of Missouri to provide legal services in non-criminal matters to eligible low income persons. Over the last three years the fee has raised approximately \$2.9 million per year. If the fund would be allowed to sunset in December 2018, the judiciary would anticipate a budget request for general revenue of approximately \$2.9 million in fiscal 2019 and each year after that.

In response to a similar proposal from this year (HCS for HB 2367), officials at the **Office of the State Treasurer**, the **Office of the State Public Defender** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

Oversight notes this proposal extends the expiration dates on the Statewide Court Automation Fund and the Basic Civil Legal Services Fund to September 1, 2023 and December 31, 2025 respectively. Oversight will reflect the following revenue to be continued to be received into these two funds as a result of this bill as follows:

	<u>FY 2019</u>	<u>FY 2020 (full year)</u>
Statewide Court Automation Fund - expires September 1, 2018 (for 10 months in FY 2019)	\$4,166,667	\$5,000,000
Basic Civil Legal Services Fund - expires December 1, 2018 (for 6 months in FY 2019)	\$1,450,000	\$2,900,000

§476.083 Court Marshal:

In response to a similar proposal from this year (HB 1685), officials at the **Office of the State Courts Administrator (OSCA)** assumed the proposed legislation allows the presiding judge of certain circuits to appoint a circuit court marshal.

Callaway County (Circuit 13), qualifies for the appointment of a state paid circuit court marshal and St. Francois County (Circuit 24) currently has a state paid circuit court marshal. Section 476.083.2 states "the salary of a circuit court marshal shall be established by the presiding judge of the circuit..., such salary shall not exceed ninety percent of the salary of the highest paid

ASSUMPTION (continued)

sheriff serving a county wholly or partially within that circuit."

Circuit Court Marshall	\$51,372
Fringes	<u>\$27,612</u>
Total	\$78,984

In response to a similar proposal from this year (HB 1685), officials at the **Department of Corrections** and the **Department of Mental Health** each assume no fiscal impact to their respective agencies from this proposal.

§478.252 Armed Offender Docket Pilot Project:

In response to a similar proposal from this year (HB 2236), officials at the **Office of the State Courts Administrator** assumed the proposed legislation establishes the Armed Offender Docket

Pilot Project within the Jackson County Circuit Court to handle all matters regarding a person accused or convicted of first degree robbery or a firearms offense. The selected charges disposed by guilty outcome during FY15 for Jackson County are listed below:

- 6 - Armed Criminal Action
- 6 - Unlawful use of a weapon (Subsections 1-4)
- 2 - Unlawful possession of a firearm
- 1 - Unlawful possesses, transport, manufacture, repair/sale of illegal weapon
- 2 - Possession of a defaced firearm
- 1 - Discharge/shoot firearm at or from motor vehicle, shoot at person, another motor vehicle or building/habitable structure-physical injury/death

The selected charges disposed by guilty outcome during FY15 for Jackson County were 18. These are the total number of charges, not cases, as there may be more than one charge affiliated with a case. 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 similar legislation from 2015, HCS for HB 1044, officials at the **Department of Corrections** assumed no fiscal impact from this proposal. Based on an analysis, there were 87 cases placed under supervision and 25 sentenced to prison in FY14. There may be potential diversions from prison sentences as a result of legislation enacting a pilot Armed Offender Docket, which increases population for probation and parole. Specialty court assignments require a greater number of work hours from Probation and Parole Officers II staff than regular

ASSUMPTION (continued)

supervision, thus increasing the overall caseload.

In response to a similar proposal from this year (HB 2236), officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

In response to a similar proposal from this year (HB 2236), officials at the **Office of the State Public Defender** assume this proposed legislation will not increase the number of cases requiring representation, but may require a specialized docket defender attendance in additional locations.

In response to a similar proposal from this year (HB 2236), officials at the **Department of Higher Education** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

§478.330 - Additional judicial positions added based upon judicial performance report:

In responses to a similar proposal from this year (CCS for HCS for SCS for SB 578), officials at the **Office of the State Courts Administrator (OSCA)** assumed the proposed legislation, pursuant to section 477.405, indicates for three consecutive calendar years the need for two or more full-time judicial positions in any judicial circuit there shall be one additional circuit judge position authorized in such circuit, subject to appropriations made for that purpose. There will be ten circuits which will qualify for a new circuit judge in FY17. They are the 7th (Clay County), 11th (St. Charles County), 16th (Jackson County), 19th (Cole County), 21st (St. Louis County), 25th (Maries, Phelps, Pulaski and Texas Counties), 31st (Greene County), 36th (Butler and Ripley Counties), 39th (Barry, Lawrence and Stone Counties) and 40th (McDonald and Newton Counties).

For a circuit judge, the cost is as follows:

Circuit Court Judge:	\$148,263 per year, plus fringes of \$111,365
Court Reporter:	\$ 57,178 per year, plus fringes of \$29,733
Computer Cost	\$ 1,110 on-going per year
Total Annual Cost	\$206,551 per year, plus fringes of \$141,098 equals \$347,649

Computer Cost	\$3,323 one-time
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The total annual cost for the 10 circuits for 20 FTE would be \$3,476,490 (\$347,649 * 10) except

ASSUMPTION (continued)

for FY 17 which would be \$2,921,055 because of the one time computer cost and 10 months of salary/fringe.

In addition, in FY18, there would be three circuits which will qualify for a new circuit judge. They are the 11th, 21st and 31st. The cost for the additional three circuit judges and three court reporters would be \$1,049,586 for FY 18 and \$1,042,947 for FY 19 forward.

In FY19, there would be two circuits which will qualify for a new circuit judge. They are the 21st and 31st. The cost for the additional two circuit judges and two court reporters would be \$699,724 in FY 19 and \$695,298 in FY 20 forward.

In FY 20, 21 and 22, there will be one circuit which will qualify for a new circuit judge. It is the 21st. The cost for the additional circuit judge and court reporter would be \$349,862 in FY 20 and \$347,649 in FYs 21 and 22.

Although the 38th Circuit (Christian and Taney Counties) currently would qualify for a new circuit judge under the proposed legislation, they have not been included in the above numbers. The current statutes adds one new circuit judge to the 38th Circuit starting in January 1, 2017. Also the 38th Circuit will be divided into two new circuits starting in January 1, 2017 which could alleviate additional circuit judges in the 38th circuit. However, it is possible that there could be the addition of an additional circuit judge in FY 17 and FY18 for the 38th circuit.

Oversight assumes TAFP SCS for SB 585 was passed by both chambers and signed by the Governor this year and had an emergency clause which makes the legislation effective currently. That legislation divides the 38th Judicial Circuit and creates a new 46th Judicial Circuit in Taney County. Therefore, Oversight will assume any additional cost associated with these two circuits will be \$0 until it is determined by the Judicial Weighted Workload analysis if these two circuits will need additional judges and court reporters.

§478.705 - Additional judicial position in 26th circuit:

In responses to a similar proposal from this year (CCS for HCS for SCS for SB 578), officials at the **Office of the State Courts Administrator** assumed the proposed legislation adds a circuit judge to the 26th judicial circuit. There will be three circuit judges in the twenty-sixth judicial circuit who shall sit in divisions numbered one, two and three. The governor shall appoint a judge for division three who serves until January 1, 2021. The circuit judge in division three shall be elected in 2020.

ASSUMPTION (continued)

For a circuit judge, the cost is as follows:

Circuit Court Judge: \$148,263 per year, plus fringes of \$111,365
Court Reporter: \$ 57,178 per year, plus fringes of \$29,733
Computer Cost: \$ 1,110 on-going per year
Total Annual Cost \$206,551 per year, plus fringes of \$141,098

Computer Cost: \$ 3,323 one time

The total annual cost for 2 FTE would be \$347,649 except for FY17 which would be \$292,106 because of the one time computer cost and 10 months of salary/fringe.

In response to a previous version of SB 578, officials at the **Department of Agriculture** assumed no fiscal impact from this proposal.

In response to a previous version of SB 578, officials at the **Platte County Board of Election Commissioners** and the **St. Louis County Board of Elections** each assumed no fiscal impact to their respective entities from this proposal.

Oversight assumes according to section 478.073.1.(2), beginning in 2020, a judicial conference shall submit to the Secretary of the Senate a circuit realignment plan for the alteration of the geographical boundaries and territorial jurisdiction of the judicial circuits. Along with a statement of the numbers and boundaries of the proposed judicial circuits together with a map of the proposed judicial circuits, the circuit realignment plan shall include an analysis of the current judicial weighted workload model. Once submitted to both chambers, a circuit realignment plan shall become effective January first of the year following the session of the general assembly (1/1/2021) to which it is submitted, unless a bill realigning the judicial circuits is presented to the Governor and is duly enacted.

Therefore, Oversight assumes once the realignment plan is submitted in 2020, judicial positions may be realigned among the circuits, and Oversight will not reflect a fiscal impact for this bill past FY 2021.

§§510.035, 545.950 Recordings or photographs of minors:

In response to a similar proposal from this year (HB 2202), officials at the **Department of Mental Health**, the **Office of Administration's Administrative Hearing Commission**, the **Department of Public Safety's Missouri Highway Patrol**, the **Office of the State Courts**

ASSUMPTION (continued)

Administrator, the Department of Social Services, the Office of the State Public Defender, the Office of Prosecution Services, the Department of Corrections and the Department of Health and Senior Services each assumed no fiscal impact to their respective agencies from this proposal.

In response to a similar proposal from this year (HB 2202), officials at the **Cole County Sheriff's Department, the St. Louis County Justice Services and the Springfield Police Department** each assumed no fiscal impact to their respective entities from this proposal.

In response to a similar proposal from this year (HB 2202), officials at the **Boone County Sheriff's Department** assumed no fiscal impact from this proposal.

§556.046 rational basis;

In response to a similar proposal from this year (SB 929), officials at the **Office of the State Courts Administrator, the Office of the State Public Defender and the Office of Prosecution Services** each assumed no fiscal impact to their respective agencies from this proposal.

§565.225 confidentiality program;

In response to a similar proposal from 2015 (SB 212), officials from the **Office of the Secretary of State and the Department of Public Safety - Missouri Highway Patrol** each assumed this proposal would not fiscally impact their respective agencies.

Officials from the **Office of the State Courts Administrator and the Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with the expanded definition of aggravated stalking to

ASSUMPTION (continued)

include accessing or attempting to access addresses for confidentiality programs.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

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

In response to a similar proposal from 2015 (SB 212), officials from the **Department of Corrections (DOC)** stated this bill proposes to add a sixth element to the existing aggravated stalking statute. An individual accessing or attempting to access an address of a participant in the address confidentiality program and harasses or follows with the intent of harassing another person is guilty of aggravated stalking.

There were 35 new admissions for the class D felony of aggravated stalking in FY14. Twenty two were probation cases, three were 120 day admissions and ten served a term sentence averaging 24 months. There were no new admissions for the class C felony of aggravated stalking (previous) in FY14, to include term sentences or probation cases. Broadening the definition of this statute may lead to more convictions. The majority can still expect to receive probation for these violations.

The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class D felony. Based upon historical data, we assume that approximately one offender per year would be sentenced to incarceration and 2 offenders in year one, 5 offenders in year two, 8 offenders in year three, and 9 offenders in year four and beyond would be sentenced to supervision under this new legislation. The average length of incarceration is 12 months and average length of supervision is 3 years. Full implementation of this legislation would occur in year 4.

The FY14 average cost of supervision was \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration was \$16.725 per day or an annual cost of \$6,105 per offender.

In summary, the DOC assumed an additional cost of \$9,176 in the first year (1 in prison and 2 on probation), \$18,737 in the second year (1 in prison and 5 on probation), and \$26,768 in the third year (1 in prison and 8 on probation).

ASSUMPTION (continued)

Oversight assumes the DOC could absorb these potential additional offenders within their current appropriation levels.

§§566.209 - 566.213 sexual trafficking;

In response to a similar proposal (SB 804), officials from the **Department of Public Safety - Missouri Highway Patrol**, the **Department of Corrections**, and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

In response to a similar proposal (SB 804), officials from the **Office of Prosecution Services (OPS)** assume the proposal would have no measurable fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Oversight assumes the proposal would have no fiscal impact on the OPS.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons face the enhanced crime of sexual trafficking of a child to include advertising a child participating in a commercial sexual act.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

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

§§569.132, 578.416 Creates the offense of intentionally weakening crops

Oversight could not find similar legislation from this year. Oversight assumes these sections would not create a material fiscal impact to the state.

§600.042 Delayed implementation of plan to establish district offices to December 2021;

In response to a similar proposal from this year (SB 705), officials from the **Office of the State Public Defender (SPD)** stated this bill postpones the required implementation date for public defender district offices to realign themselves concurrently with judicial circuits until after the

ASSUMPTION (continued)

2020 realignment of judicial circuits authorized under Section 478.078, avoiding the likelihood that SPD would realign its offices to match existing judicial circuits by 2018 only to have to re-do those efforts two years later.

The SPD has 33 trial district offices serving 45 judicial circuits and 115 counties. By statute, office space for these district offices is provided and paid for by the counties served by that district office, each county paying a proportion of the total rent and utilities according to comparative population. Each time the geographic boundaries of a defender office's area of service are changed, the leases which the counties have signed and the respective payment obligations of all the counties involved, are also impacted. Because of the significant complications involved in realignment of offices, avoiding the necessity of back to back realignments makes fiscal and operational sense.

As stated by the SPD above, without this bill several office realignments may need to occur in 2018, which is shortly before the 2020 realignment of judicial circuits occurs (as authorized under Section 478.073). Therefore, **Oversight** concurs that this proposal may, in effect, save money for the state's SPD as well as the counties who help support them. It is not possible to measure the amount of potential savings to the state and counties until the details of the 2020 realignment are available.

For example, as part of the report submitted to fulfill requirements of Section 600.042, the SPD stated that currently there is a Public Defender (PD) District office in Callaway County (Fulton). Callaway County is currently part of the 13th Judicial Circuit along with Boone County. A PD District Office already exists in Columbia, so the office in Fulton will need to move to another location within the 12th Judicial Circuit (currently Audrain, Montgomery and Warren Counties). However, the 2020 realignment may possibly move Callaway County out of the 13th Judicial Circuit and into the 12th Judicial Circuit, which could allow the PD District Office to be moved back to Fulton.

At the very least, this bill will delay the expense of implementing the SPD office realignments from 2018 to 2021.

For purposes of this fiscal note, **Oversight** will reflect a savings of More than \$100,000 in FY 2018 to the state as well as local political subdivisions, as the SPD realignment will be delayed until after the 2020 realignment of judicial circuits. In some cases, the costs may simply be delayed until 2020; however, in some cases, a cost avoidance (of moving twice in three years) may occur.

ASSUMPTION (continued)

In response to a similar proposal from 2015 (SB 91), officials from the **SPD** stated that eliminating the biennial sweep of the Legal Defense and Defender Fund will assist the Public Defender System with budgeting of expenditures from the fund. A large percentage of the monies collected from prior public defender clients, is during the tax intercept season, March, April and May. This affords very little time to budget and expand the monies collected. Eliminating the sweep would allow constant fiscal year spending rather than a flurry at the end of every two years. The SPD states the biennial sweep of this fund occurs on odd number fiscal years (FY 2015).

Oversight notes that according to Office of the State Treasurer (STO) reports, the balance of Legal Defense and Defender Fund (0670) as of November 30, 2015 was \$142,838. The STO also noted that this fund has not had monies swept into the General Revenue Fund recently. Therefore, Oversight will assume the proposed changes regarding this fund would not have a fiscal impact on this fund or the General Revenue Fund.

§610.026 Research time charged for open records requests;

In response to a similar proposal, HB 2344, officials from the **Office of Administration - Budget and Planning** stated that currently, RSMo 610.026.1(1) allows public agencies, when fulfilling records requests, to charge fees for research time. This proposal specifies that research time includes time spent reviewing records to determine whether they are closed or are authorized to be closed. This could impact state agencies fulfilling such requests. This may increase Total State Revenue by an unknown amount and could impact the calculation under Article X, Section 18(e).

Oversight assumes this proposal may impact local law enforcement agencies in a similar manner as stated above by Office of Administration - Budget and Planning. For fiscal note purposes, Oversight will show an unknown positive impact to these agencies.

§650.058 Restitution for the wrongly convicted;

Oversight assumes this part of the proposal may result in a higher number of individuals who receive restitution from the state for being wrongly convicted and imprisoned. Due to time constraints and without a response from the Department of Corrections, Oversight will assume a potential unknown increase state expense from this proposal.

House Committee Amendment 15:

Oversight notes that HCA 15 moves the effective dates of various sections of the proposal.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2021)
GENERAL REVENUE				
<u>Income</u> - able to charge for time spent reviewing records to determine whether closed or not §610.026	Unknown	Unknown	Unknown	Unknown
<u>Savings</u> - Department of Corrections - cost avoidance of not allowing offender to object to videoconferencing §§217.670, 217.690	\$23,400	\$28,361	\$28,644	\$28,644
<u>Savings</u> - Department of Corrections - cost avoidance on incarceration of 8 offenders wearing Electronic Monitoring Devices §455.095	Up to \$19,383	Up to \$5,732	\$0	\$0
<u>Cost Avoidance and/or Cost Delaying</u> - SPD - delaying the realignment of SPD offices until after the judicial circuit realignment §600.042	\$0	More than \$100,000	\$0	\$0

<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2021)
<u>Cost</u> - Department of Corrections - from indigent individuals being incarcerated - electronic monitoring §455.095	(Up to \$14,617)	(Up to \$77,500)	(\$12,506 to \$139,851)	(\$12,506 to \$139,851)
<u>Costs</u> -DOR - ITSD costs for changes regarding DWI and alcohol monitoring §302.440 - §302.535	(\$51,921)	\$0	\$0	\$0
<u>Cost</u> - DOR - administrative costs to implement changes for failure to yield changes §304.351	(\$35,240)	\$0	\$0	\$0
<u>Cost</u> - OSCA - Circuit Court Marshal for Callaway County §476.083	(Up to \$39,492)	(Up to \$78,984)	(Up to \$78,984)	(Up to \$78,984)
FTE Change - OSCA	1 FTE	1 FTE	1 FTE	1 FTE
<u>Costs</u> - OSCA - Additional judges in ten circuits (Section 478.330)	\$0	(\$3,771,730)	(\$4,526,076)	(\$5,562,384)
FTE Change - OSCA	0 FTE	20 FTE	26 FTE	32 FTE

<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2021)
<u>Costs</u> - OSCA - appointment of circuit judge in division three in the 26 th circuit (Section 478.705)	(\$292,106)	(\$347,649)	(\$347,649)	(\$347,649)
FTE Change - OSCA	2 FTE	2 FTE	2 FTE	2 FTE
<u>Costs</u> - DOC - potential increase in restitution paid to those wrongly convicted and imprisoned §650.058	<u>\$0</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO GENERAL REVENUE	(Could exceed <u>\$390,593</u>)	(Could exceed <u>\$4,141,770</u>)	(Could exceed <u>\$5,063,916</u>)	(Could exceed <u>\$6,100,224</u>)
Estimated Net FTE Change for General Revenue	1 FTE	23 FTE	29 FTE	35 FTE
HIGHWAY FUND				
<u>Income</u> - Additional revenue from reinstatement fees for failure to yield §304.351	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>
ESTIMATED NET EFFECT TO THE HIGHWAY FUND	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>

<u>FISCAL IMPACT -</u> <u>State Government</u> (continued)	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2020)
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**STATEWIDE COURT
 AUTOMATION
 FUND**

<u>Income</u> - receipts received (FY '19 is for 10 months) §476.055	<u>\$0</u>	<u>\$0</u>	<u>\$4,166,667</u>	<u>\$5,000,000</u>
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**ESTIMATED NET
 EFFECT ON
 STATEWIDE COURT
 AUTOMATION
 FUND**

	<u>\$0</u>	<u>\$0</u>	<u>\$4,166,667</u>	<u>\$5,000,000</u>
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**BASIC CIVIL LEGAL
 SERVICES FUND**

<u>Income</u> - receipts received (FY '19 is for 6 months) §477.650	<u>\$0</u>	<u>\$0</u>	<u>\$1,450,000</u>	<u>\$2,900,000</u>
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**ESTIMATED NET
 EFFECT ON BASIC
 CIVIL LEGAL
 SERVICES FUND**

	<u>\$0</u>	<u>\$0</u>	<u>\$1,450,000</u>	<u>\$2,900,000</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2020)
LOCAL POLITICAL SUBDIVISIONS				
Income - Cities and Counties Additional revenue from reinstatement fees from failure to yield §304.351	Less than \$100,000	Less than \$100,000	Less than \$100,000	Less than \$100,000
Revenues - Local School Districts Income from fines for failure to yield §304.351	Could exceed \$100,000	Could exceed \$100,000	Could exceed \$100,000	Could exceed \$100,000
Income - able to charge for time spent reviewing records to determine whether closed §610.026	Unknown	Unknown	Unknown	Unknown
Cost Avoidance and/or Cost Delaying - SPD - delaying the realignment of SPD offices until after the judicial circuit realignment §600.042	<u>\$0</u>	<u>More than \$100,000</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	Could exceed <u>\$100,000</u>	Could exceed <u>\$100,000</u>	Could exceed <u>\$100,000</u>	Could exceed <u>\$100,000</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

§§217.670, 217.690 - Currently, the use of videoconferencing must not be used if the offender, the victim, or the victim's family objects. This bill removes the offender from the list of individuals who can object. The bill also removes the requirement that the parole board conduct a personal interview with the offender, permitting the interview to be conducted via videoconferencing.

§304.351 increases the penalties for the offense of failing to yield the right-of-way and the time period the court may order the suspension of a person's driving privilege for the offense.

§455.095 provides that a court may place a person on electronic monitoring with victim notification if the person is charged with, or has been found guilty of, violating an order of protection. Electronic monitoring with victim notification is defined as a monitoring system that can monitor the movement of a person and immediately transmit the person's location to the victim and local law enforcement when the person enters a certain area.

§476.055 - the Statewide Court Automation Fund fee is set to expire on September 1, 2018; this bill extends the expiration date to September 1, 2023. The Court Automation Committee is currently required to complete its duties prior to September 1, 2020, this bill extends that date to September 1, 2025.

§477.650 - the Basic Civil Legal Services Fund is currently set to expire on December 31, 2018. This bill extends the expiration date to December 31, 2025.

§476.083 allows the presiding judge of a circuit with a diagnostic and reception center and a mental health facility which houses individuals found not guilty by reason of mental disease or defect, and provides sex offender rehabilitation and treatment services, to appoint a court marshal.

§478.330 - authorizes an additional circuit judge in certain circuits when indicated by a judicial performance report.

§478.705 - adds a circuit court judge to the 26th Judicial Circuit.

FISCAL DESCRIPTION (continued)

§600.042 - Under current law, the director of the State Public Defender System must implement a plan to establish district offices that align with judicial circuit boundaries by December 31, 2018. This act extends the date of implementation to December 31, 2021. In addition, current law allows unexpended funds of up to \$150,000 to remain in the Legal Defense and Defender Fund at the end of the fiscal year. This act removes the cap, so all unexpended money remains in the fund.

§610.026 - modifies provisions relating to the Sunshine Law. Currently, allowable fees for providing public records includes research time for fulfilling requests. This proposal includes time spent reviewing records to determine whether or not the records are closed or authorized to be closed. A public body may waive or reduce fees if such waiver or reduction is in the public interest because the applicable fees are minimal and should be waived for administrative efficiency. Payment of copying, search, research and duplication fees may be requested prior to the making of copies or production of records.

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 Public Safety
Office of the State Public Defender
Department of Health and Senior Services
Department of Corrections
Office of Prosecution Services
Office of the State Courts Administrator
Office of Prosecution Services
Department of Revenue
Department of Transportation
Department of Insurance, Financial Institutions and Professional Registration
Department of Social Services
Joint Committee on Administrative Rules
Office of the State Treasurer
Department of Mental Health
Attorney General's Office
Department of Higher Education
Office of Administration
Office of the Secretary of State

SOURCES OF INFORMATION (continued)

Boone County Sheriff's Office
St. Louis County Police
Kansas City
St. Louis County
City of Independence
Cole County Sheriff's Office
Springfield Police Department



Mickey Wilson, CPA
Director
May 11, 2016

Ross Strobe
Assistant Director
May 11, 2016