

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4515-03
Bill No.: SB 816
Subject: Attorneys; Courts; Crimes and Punishment; Criminal Procedure
Type: Original
Date: January 14, 2016

Bill Summary: This proposal repeals the death penalty.

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

Officials from the **Office of the State Public Defender (SPD)** state they devote significant resources to the defense of capital cases at the expense of its trial and appellate divisions. Were the death penalty to be eliminated, the resources currently devoted to those capital cases could be diverted to other areas.

The resources that could be so diverted if the death penalty were to be eliminated would include:

- 17 more attorney positions;
- 12 support staff positions.

There would also be some savings in the cost of experts, travel, and depositions associated with capital cases which are always significantly higher than that of regular cases due to the need to investigate and present the defendant's entire life history as part of the penalty phase mitigation. It's hard to estimate exactly what the difference would be, since some of those litigation expenses would continue to be necessary even if the case is non-capital. However, litigation expenses and attorney's fees paid to contract out conflict cases to private 'panel attorneys' both come out of the same appropriation. Any money no longer needed for litigation expenses due to the elimination of the death penalty would instead be used to contract out additional conflict and case overload cases. The SPD has requested an additional \$3.876 million for FY 2017 for contracting out all conflict cases.

Oversight assumes the SPD would not realize an overall savings from this proposal, but instead would reallocate resources within its operations.

Officials from the **Department of Corrections (DOC)** state the death penalty was reinstated in Missouri in 1977 with the first execution occurring in 1989. The average time for executing someone with a death sentence is 10+ years, which is beyond the scope of this fiscal analysis. There are currently 28 offenders awaiting a death sentence. The average age of these offenders is 47 years old. Eleven of the offenders have spent more than ten years in prison and their average age is 49. The average age of natural death in prison is 55 years old, therefore this group can expect to spend an additional six years in prison. The average age of the remaining 17 is 46 years old and they can expect to spend an additional nine years in prison. Finally, the youngest death row offender is 30 and the oldest is 66. New criminal penalties are not addressed in this bill.

ASSUMPTION (continued)

DOC currently incurs a direct offender cost through incarceration (the FY15 average cost of incarceration is \$16,809 per day or an annual cost of \$6,135 per offender). This cost would be offset by the one-time cost per each offender who wouldn't be executed.

The DOC assumes no fiscal impact from the proposal.

Oversight assumes a repeal of the death penalty would not create a direct fiscal impact to the state in the three years reflected in the fiscal note. The one-time expense for an execution (\$32,146 per DOC from 2014 response) equates to over 5 years of incarceration expense ($\$32,146 / \$6,135 = 5.2$ years).

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a 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.

Officials from the **Office of the Governor** assume the proposal would not fiscally impact their agency.

In response to a similar proposal from this year (HB 1402), officials from the **Office of the State Courts Administrator** assumed the proposal would not fiscally impact their agency.

Officials from the Attorney General's Office did not respond to our request for fiscal impact.

<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

The proposed legislation appears to have no direct fiscal impact.

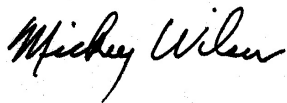
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Office of the Governor
Office of the State Courts Administrator

Not Responding:

Attorney General's Office



Mickey Wilson, CPA
Director
January 14, 2016

Ross Strobe
Assistant Director
January 14, 2016