

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6320-01
Bill No.: SB 1013
Subject: Courts; Crimes and Punishment; Civil and Criminal Procedure
Type: Original
Date: February 15, 2016

Bill Summary: This proposal modifies provisions relating to procedures in criminal proceedings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$72,500)	(\$89,175)	(\$91,404)
Total Estimated Net Effect on General Revenue	(\$72,500)	(\$89,175)	(\$91,404)

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

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 2015, SB 382, officials at the **Office of the State Public Defender** assume these provisions will slow the deposition of cases and therefore will likely add to the time to disposition and to attorney time necessary for resolution. The provisions may also increase the number of jury trials. No depositions and investigators will need to spend more time in the field finding and interviewing folks. If the deposing party is required to pay for a copy of a deposition for the opposing party, it is likely the Public Defender will incur an additional annual \$87,000 in deposition costs.

In response to similar legislation from 2015, SB 382, officials at **Office of the Attorney General** assumed that any potential costs arising from this proposal can be absorbed with existing resources.

In response to similar legislation from 2015, SB 382, officials at the **Office of the State Courts Administrator**, the **Department of Public Safety's Missouri Highway Patrol**, the **Department of Corrections** and the **Office of Prosecution Services** each assumed no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>Costs - State Public Defender - copies of depositions</u>	<u>(\$72,500)</u>	<u>(\$89,175)</u>	<u>(\$91,404)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$72,500)</u>	<u>(\$89,175)</u>	<u>(\$91,404)</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

This act modifies provisions relating to procedures in criminal proceedings.

MOTION TO SUPPRESS - §542.296

Under current law, a person aggrieved by an unlawful seizure made by an officer may file a motion to suppress the evidence if there is a pending criminal investigation being conducted with the intention of using the seized item to seek an indictment or information or when the person has been charged. This act repeals the provision allowing for the motion to suppress during the pending criminal investigation.

PRELIMINARY EXAM - §544.250

This act specifies the type of evidence on which a court may base its findings in a preliminary hearing.

DEPOSITIONS IN CRIMINAL CASES - §545.400

Current law allows the defendant in any criminal case to depose witnesses. This act allows any party to depose witnesses in felony cases and provides that depositions in misdemeanor cases may only be taken upon court order. Under this act, the party taking the deposition must provide a copy of the transcript and any recording from the deposition to the other party.

CHANGE OF VENUE - §545.490

Current law requires the defendant to set forth facts supporting a change of venue, including affidavits from the petitioners and at least two credible disinterested citizens of the county where the case is pending. The prosecuting attorney may offer rebuttal evidence. If the case is in a county with a population of less than 75,000, the judge must grant a change of venue if the petition is supported by affidavits from five or more credible disinterested citizens residing in different neighborhoods of the county.

This act repeals the current law and provides that a change of venue may be ordered in a felony case for a list of specified reasons. This act also requires the application for a change of venue be

FISCAL DESCRIPTION (continued)

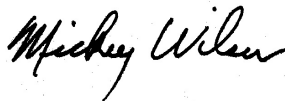
filed within 30 days of arraignment. The application must set forth the reasons for the change in venue, but need not be verified. The prosecutor may file a denial of the existence of the reasons alleged in the application, and if a denial is filed, the court must hold a hearing on the matter. If the court finds in favor of the defendant or no denial is filed by the prosecutor, a change of venue must be ordered.

This act specifies that all proceedings, except the trial by jury, must occur in the originating county, except as otherwise agreed upon by the parties and the court.

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 Public Safety
 Missouri Highway Patrol
Department of Corrections
Office of Prosecution Services



Mickey Wilson, CPA
Director
February 15, 2016

Ross Strobe
Assistant Director
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