

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0089-07
Bill No.: CCS for HCS for SS for SB 34
Subject: Crimes and Punishment; Immigration
Type: Original
Date: May 11, 2017

Bill Summary: This proposal modifies and creates new provisions relating to criminal offenses.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	\$329,941	\$790,412	\$1,043,057
Total Estimated Net Effect on General Revenue	\$329,941	\$790,412	\$1,043,057

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Criminal Records Fund	(\$93,575)	(\$113,434)	(\$114,586)
Total Estimated Net Effect on Other State Funds	(\$93,575)	(\$113,434)	(\$114,586)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Criminal Records	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 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 2018	FY 2019	FY 2020
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.

Due to time constraints, officials from the **Department of Corrections (DOC)** stated they were unable to provide a narrative regarding the impact they proposal would have on their department. However, DOC did provide the following net fiscal impact of the conference committee substitute, as a whole. DOC noted most of the savings resulted from cost avoidance regarding the criminal nonsupport arrears issue.

	fewer # to prison	Cost per year	Total Savings for prison	fewer # to probation	Cost per year	Total savings for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	(39)	(\$6,085)	\$237,315	(71)	(\$2,234)	\$158,614	\$329,941
Year 2	(74)	(\$6,085)	\$447,856	(146)	(\$2,234)	\$327,058	\$790,412
Year 3	(69)	(\$6,085)	\$419,257	(261)	(\$2,234)	\$583,297	\$1,043,057
Year 4	(66)	(\$6,085)	\$401,002	(264)	(\$2,234)	\$589,553	\$1,051,184
Year 5	(64)	(\$6,085)	\$388,832	(262)	(\$2,234)	\$584,191	\$1,053,231
Year 6	(64)	(\$6,085)	\$388,832	(259)	(\$2,234)	\$577,489	\$1,066,896
Year 7	(64)	(\$6,085)	\$388,832	(256)	(\$2,234)	\$570,787	\$1,080,686
Year 8	(64)	(\$6,085)	\$388,832	(255)	(\$2,234)	\$568,553	\$1,099,734
Year 9	(64)	(\$6,085)	\$388,832	(255)	(\$2,234)	\$568,553	\$1,121,729
Year 10	(64)	(\$6,085)	\$388,832	(255)	(\$2,234)	\$568,553	\$1,144,163

If this impact statement has changed from statements submitted in previous years, it is because DOC's Budget and Research Section reviewed the way responses had been submitted and has developed a more precise way to calculate the impact. In previous year's responses, the full impact of recidivism for parole releases was not adequately calculated. Now we have been able to quantify the fact that some parolees are returned to prison after release and that has been added into the calculation of the impact. The total number of offenders has not changed but there is an assumption that they will spend more time back in prison rather than being on community

ASSUMPTION (continued)

supervision, which will increase the amount of the impacts.

Officials from the **Department of Public Safety - Missouri Highway Patrol** state the following sections impact their agency:

Section 568.040 - the Criminal Justice Information Services Division (CJIS) states that there are currently 26,626 individuals that were convicted/plead guilty to felony non-support in the Central Repository prior to 2009 (eight years ago). It is assumed that many of these individuals will not apply for expungement due to not meeting the clean records requirements. However, for the purpose of this estimate, the assumption is that 10% (2,663) of these individuals will qualify and apply for expungement. There are an additional 17,462 felony arrests with corresponding court actions that would become eligible over the next eight years, which averages 2,183 (17,462 / 8) per year.

1 FTE = 1,864 hours (average work hours per year) x 60 minutes per hour = 111,840 minutes per year.

The current average time per petition to log, process, research, review, create related correspondences, and to expunge the information when the order is received is 90 minutes. Therefore, one FTE can handle 1,243 expungements per year = 111,840 / 90.

These FTE (CJIS Technicians, Range 16) would be necessary to process all expungement requests, review criminal history records, contact any agency associated with the arrests or convictions, and collect the necessary data for the court orders.

Based on the average yearly salary and benefit rate per FTE at \$55,495 and the ability of that employee to process 1,243 expungements per year, the cost alone per expungement is $\$55,495 \div 1,243 = \44.64 . It is suggested that a fee, similar to the criminal history background check fee, be implemented for the cost of researching and reviewing the criminal histories, as well as contacting of the various agencies associated with the arrests. In researching other states with similar expungement requirements, they all charge a fee to offset the cost of the time required to process the expungements. Their fees ranged from \$50 to \$450 per petition per arrest date.

These FTE will most likely be 2nd and 3rd shift employees so they would not require any equipment. However, there would be recurring costs of \$650 per year per FTE for office supplies and phone charges. If any FTE were placed on the 1st shift, standard equipment would be required at a one-time cost of \$6,094 per FTE.

ASSUMPTION (continued)

2 CJIS Technicians (\$1,232.50 x 24)	\$59,160
Office Equipment/HW/SW	\$6,094
RECURRING COSTS	
Phone Charges per FTE	\$350
Office Supplies per FTE	\$300

In summary, the MHP assumes a cost of 2 FTE to total approximately \$115,000 per year to the Criminal Records Fund.

In response to a previous version of the bill, officials from the **Office of State Public Defender (SPD)** stated they could not assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with the enhanced penalties for a series of offenses, including manslaughter, stalking, and/or property damage, if the offense was directed at a member of law enforcement. This legislation also creates the new crime of illegal reentry, a new Class C felony.

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.

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 State Courts Administrator, Missouri Department of Conservation, Department of Natural Resources the Department of Transportation, Missouri Lottery Commission, the MoDOT and Patrol Employee's Retirement System, and the Missouri State Employees Retirement System** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Joint Committee on Public Retirement** state Section 105.669 is the only provision relating to retirement. Our review of this legislation would indicate that such provisions would not create a "substantial proposed change" in future plan benefits as defined in Section 105.660 (10).

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assume the following sections will impact their agency:

- Section 577.001 - The proposed language adds federal and military offenses to the definition of "intoxication-related traffic offense". It's also removing certain felony DWI-Fatality offenses from this section and adding them to Section 577.010.
- Section 577.010 - The proposed language was removed from 577.001 and placed in this section with all other driving while intoxicated offenses. This will require three new charge codes to be created by State Judicial Records Committee (SJRC). This would require the Department to map the newly created charge codes to our existing MODL codes.
- Section B - The proposed emergency clause would repeal and reenact §§479.170, 557.035, 565.076, 565.091, 566.010, 575.280, 577.001, and 577.010, and enact §§252.069 and 589.644 upon its passage and approval.

DOR assumes the following administrative impact in FY 2018:

- Updates to Forms and Internal procedures;
- Updates to Website;
- Training of Staff; and
- Review of new charges codes to map to existing MODL codes

1 Management Analyst I - 80 hours @ \$20.94 per hour =	\$1,675
1 Revenue Band Manager I - 40 hours @\$25.93 per hour=	\$1,037

Update web pages-	
Administrative Analyst III - 40 hrs. @ \$22.59 per hour =	<u>\$904</u>

Total	\$3,616
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DOR assumes it will be able to absorb the above listed costs. If multiple bills pass which require Department resources and updates, the Department could request additional FTE's and related equipment and expenses through the appropriation process.

ASSUMPTION (continued)

§589.644 - Participant address confidentiality program

In response to a similar proposal from this year (SCS for HCS for HB 260) officials from the **Department of Social Services** stated this version adds section 589.664 which requires that if a person is a participant in the address confidentiality program, no person or entity may be compelled to disclose the person's actual address through discovery without specified court findings. However, parents are entitled to receive information about their own children pursuant to Section 210.150 and Supreme Court Rule 123.08.

As written, the provisions of this proposal have no fiscal impact, but DSS has the potential to lose federal funding due to lack of full compliance with federal requirements.

Officials from the Office of the Secretary of State did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE			
<u>Savings - DOC - fewer incarceration and/or supervision of offenders from various provisions</u>	<u>\$329,941</u>	<u>\$790,412</u>	<u>\$1,043,057</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$329,941</u>	<u>\$790,412</u>	<u>\$1,043,057</u>

FISCAL IMPACT - State Government FY 2018 FY 2019 FY 2020
 (confidential) (10 Mo.)

CRIMINAL RECORDS FUND

<u>Costs - MHP</u>			
Personal Service 2 FTE	(\$49,300)	(\$59,752)	(\$60,349)
Fringe Benefits	(\$43,192)	(\$52,349)	(\$52,872)
Expense & Equipment	(\$1,083)	(\$1,333)	(\$1,365)
<u>Total Costs - MHP</u>	(\$93,575)	(\$113,434)	(\$114,586)
Total FTE MHP	2 FTE	2 FTE	2 FTE

ESTIMATED NET EFFECT TO THE
CRIMINAL RECORDS FUND **(\$93,575)** **(\$113,434)** **(\$114,586)**

Estimated Net FTE Change for the Criminal Records Fund	2 FTE	2 FTE	2 FTE
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FISCAL IMPACT - Local Government FY 2018 FY 2019 FY 2020
 (10 Mo.)

\$0 **\$0** **\$0**

FISCAL IMPACT - Small Business

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

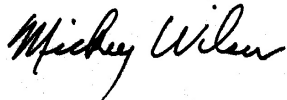
FISCAL DESCRIPTION

This act modifies and creates new provisions relating to criminal offenses.

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 Courts Administrator
Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Department of Revenue
Department of Transportation
Missouri State Employees Retirement System
Joint Committee on Public Retirement



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May 11, 2017

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May 11, 2017