

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0633-12  
Bill No.: Perfected SS#4 for SB 224  
Subject: Civil Procedure; Courts  
Type: Original  
Date: May 2, 2019

Bill Summary: This proposal modifies provisions relating to discovery.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
State Road Fund	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
<b>Local Government</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Due to time constraints of less than 8 hours, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented his 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 a previous version of the proposal, officials at the **Missouri Department of Transportation (MoDOT)** assumed an unknown negative fiscal impact of less than \$50,000. In terms of negative impacts, Rule 56.01 is modified to require designated expert witnesses to prepare written reports. The reports will require additional funds to be expended by the party employing the expert witness. Currently, MoDOT does not ask its experts to prepare written reports and their opinions are shared with the Chief Counsel's Office (CCO) orally and only in response to specific questions and documents. The total costs that will be incurred by MoDOT to pay for written reports for CCO experts is unknown, as CCO cannot estimate accurately how many designated expert witness reports will be required annually and how much time such reports will take in order to estimate the likely costs.

The benefit to the CCO is that opposing counsel will be required to provide written reports of its experts at least 90 days in advance of a deposition. This will provide MoDOT and CCO a much better opportunity to prepare for its cross-examination of opposing expert witnesses. There is no way to estimate the positive fiscal impact resulting from this benefit.

**Oversight** will use the Missouri Department of Transportation response for this proposal.

In response to a previous version of the proposal, officials at the **Office of the State Public Defender (SPD)** assumed this proposal would only affect Post Conviction Relief (PCR) cases and the deposition changes would have little fiscal impact. The one thing that would have a minor fiscal impact is the provision that requires an expert to prepare a written report. To the extent the proposed legislation requires experts in some PCR cases to prepare written reports would increase the costs from the expert witness.

**Oversight** inquired the SPD further about the fiscal impact of this proposal. SPD estimates a cost of less than \$50,000 each year. This proposal would require additional investigations to be done and additional expert witness hours to prepare written reports. Oversight will use the SPD response for this proposal.

ASSUMPTION (continued)

In response to a previous version of the proposal, officials at the **Office of the State Courts Administrator**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Corrections** and the **Office of Prosecution Services** each assumed no fiscal impact to their respective agencies from this proposal.

**Oversight** notes that the Office of the State Courts Administrator, the Department of Insurance, Financial Institutions and Professional Registration, the Department of Corrections and the Office of Prosecution Services each has stated a previous version of the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

**Oversight**, requested a response from the Office of the Attorney General (AGO) and for a previous version of this proposal on February 8, 2019. As of the printing of this fiscal note, Oversight has not received a response from the AGO. However, Oversight assumes this proposal could increase litigation costs to the AGO and to political subdivisions based upon responses from the Office of the State Public Defender and Department of Transportation. Oversight assumes changes in the proposal could result in an increased number of depositions requested and performed, increasing costs.

Due to time constraints of preparing a fiscal note on this Senate Substitute, **Oversight** has not received any responses from potentially impacted organizations for this proposal and Oversight is unsure of the fiscal impact. Therefore, Oversight will range the fiscal impact from \$0 to an Unknown decrease or increase in discovery costs.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> - potential decrease in discovery costs	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> - potential increase in discovery costs	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Cost</u> - SPD - for additional investigations and expert hours to prepare written reports	(Less than <u>\$50,000</u> )	(Less than <u>\$50,000</u> )	(Less than <u>\$50,000</u> )
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<u><b>\$0 or Unknown to (Unknown)</b></u>	<u><b>\$0 or Unknown to (Unknown)</b></u>	<u><b>\$0 or Unknown to (Unknown)</b></u>
<b>STATE ROAD FUND</b>			
<u>Savings</u> - potential decrease in discovery costs	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Cost</u> - MODOT - increase cost relating to discovery in litigation	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>ESTIMATED NET EFFECT ON STATE ROAD FUND</b>	<u><b>\$0 or Unknown to (Unknown)</b></u>	<u><b>\$0 or Unknown to (Unknown)</b></u>	<u><b>\$0 or Unknown to (Unknown)</b></u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>POLITICAL SUBDIVISIONS</b>			
<u>Savings</u> - potential decrease in discovery costs	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> - potential increase in discovery costs	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO POLITICAL SUBDIVISIONS</b>	<u><b>\$0 or</b></u> <u><b>Unknown to</b></u> <u><b>(Unknown)</b></u>	<u><b>\$0 or</b></u> <u><b>Unknown to</b></u> <u><b>(Unknown)</b></u>	<u><b>\$0 or</b></u> <u><b>Unknown to</b></u> <u><b>(Unknown)</b></u>

FISCAL IMPACT - Small Business

Small businesses involved in litigation could be impacted by this proposal.

FISCAL DESCRIPTION

This act modifies numerous provisions relating to discovery.

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

Missouri Department of Transportation  
Office of the State Public Defender  
Office of the State Courts Administrator  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Corrections  
Office of Prosecution Services



Kyle Rieman  
Director  
May 2, 2019

Ross Strobe  
Assistant Director  
May 2, 2019