

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2297-01
Bill No.: SB 462
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: April 15, 2019

Bill Summary: This proposal provides a procedure by which a defendant may be found to be not eligible for the death penalty due to serious mental illness.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| | | | |
| Total Estimated Net Effect on General Revenue | \$0 | \$0 | \$0 |

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

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| | | | |
| | | | |
| 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 2020 | FY 2021 | FY 2022 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of the State Courts Administrator** assume 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 2018, SB 1081, officials at the **Office of the Attorney General (AGO)** assumed that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

Officials at the **Department of Corrections (DOC)** assume there will be some operational impact with offenders bringing forward this defense and an increased number of attorney visits or contacts; however, the DOC anticipates this will not have a significant operational or fiscal impact from this proposal. This bill seeks to alter the procedure and evidence for a criminal defendant to avoid the death penalty due to serious mental illness. Although DOC mental health codes do not speak to specific mental illnesses, their needs are categorized from 1-5, 5 being severe impairment. A current distribution shows that 20% of death row offenders received a 1, 44% a 2, 32% a 3, and 4% a 4 or no rating. Clearly, 80% have some degree of mental health impairment.

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 plus years, which is beyond the scope of fiscal analysis. There are currently 25 offenders awaiting a death sentence. The average age of these offenders is 49 years old. Eighteen of the offenders have spent more than ten years in prison and their average age is 50. The average age of natural death in prison is 55 years old, therefore this group can expect to spend an additional five years in prison. The average age of the remaining 7 is 49 years old and they can expect to spend an additional six years in prison. Finally, the youngest death row offender is 33 and the oldest is 64. New criminal penalties are not addressed in this bill.

Officials at the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Social Services**, 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.

ASSUMPTION (continued)

Oversight notes that the Office of the State Courts Administrator, the Office of the Attorney General, the Department of Corrections, the Department of Health and Senior Services, the Department of Mental Health, the Department of Social Services, the Office of the State Public Defender and the Office of Prosecution Services each has stated 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.

Oversight inquired the Office of the State Public Defender and the Office of Prosecution Services if there would be any costs associated with an increase in trial time from this proposal. The Office of the State Public Defender does not see any additional costs from this proposal. Oversight is currently waiting on a response from the Office of Prosecution Services. Upon the receipt of their response, 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.

| <u>FISCAL IMPACT - State Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
|---|---------------------|------------|------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

| <u>FISCAL IMPACT - Local Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
|---|---------------------|------------|------------|
| | <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

Office of the State Courts Administrator
Office of the Attorney General
Department of Corrections
Department of Health and Senior Services
Department of Mental Health
Department of Social Services
Office of the State Public Defender
Office of Prosecution Services



Kyle Rieman
Director
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Ross Strobe
Assistant Director
April 15, 2019