

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3007-03
BILL NO.: SCS for SB 678 & 742
SUBJECT: Courts; Civil Procedure
TYPE: Original
DATE: February 22, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	\$0 to (\$166,135)	\$0 to (\$141,454)	\$0 to (\$143,493)
Legal Services for Low-Income People	Unknown	Unknown	Unknown
Tort Victims' Compensation	(\$253,822 to Unknown)	(\$261,990 to Unknown)	(\$273,204 to Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(\$253,822 to \$419,957)	(\$261,990 to \$403,444)	(\$273,204 to \$416,697)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would make a number of technical and clarifying changes to statutes dealing with the operation and procedure in courts. While the provisions may result in certain tasks becoming easier or more efficient for judiciary personnel, CTS officials do not anticipate any appreciable impact on the costs or revenues of the judiciary.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the proposal would have a significant impact on the rules relating to orders of protection that are entered into the MULES system. This information is currently entered by the chief law enforcement officer responsible for maintaining the MULES system. However, the proposal would allow orders of protection to be entered using a direct automated data transfer from the court's automated system. MHP assumes CTS could require their agency to comply with the provisions outlined in the proposal. Therefore, MHP would have to review the training and audit processes within the MULES program with MHP's Communications Division and appropriate MULES committee members. The process of validation of entries, clearing, modifying and deleting would have to be considered and addressed.

As a result of the change in procedure as outlined above, MHP assumes their agency would be required to hire an outside consultant to out source the interface. The cost to out source the interface would have to be incurred to enable even one county to enter orders of protection via direct automated data transfer from the court's automated system. Therefore, MHP assumes their agency would be required to hire a consultant to build the actual interface (150 hours), to test the interface and application (90 hours), to process documentation (60 hours), and for operation and monitoring procedures (30 hours). Therefore, the initial cost would be \$49,913 (330 hours at \$151.25 per hour). MHP further assumes their agency would require 396 consultant hours annually for ongoing support. The ongoing support would include the recurring maintenance for the software and hardware after the application and interface is developed and implemented. Software maintenance would be required in the areas of application, operating system, actual interface, network and the middle ware (IMP's MQ Series). Hardware maintenance would include support of the network hardware, such as routers. The ongoing support would be provided through consulting services. MHP assumes their agency would require 396 outside consultant hours for ongoing support at a cost of \$59,895 annually (396 hours at \$151.25 per hour). Overall, MHP reports total costs of \$99,826 for FY 01 (\$49,913 initial outlay plus ten months of ongoing support) and \$59,895 annually thereafter.

ASSUMPTION (continued)

Oversight agrees that MHP's costs would be reasonable if CTS requires orders of protection to be entered using a direct automated data transfer from the court's automated system as authorized in the proposal. However, the proposal states that the information contained in an order of protection may be entered in the MULES system using a direct automated data transfer from the court automated system to the law enforcement system. Oversight assumes MHP would not incur any additional costs if the process of entering orders of protection does not change. Therefore, Oversight assumes the net effect would be zero or the costs reported by MHP – depending on the action taken by CTS.

Officials from the **Office of State Courts Administrator (CTS)** indicated there are 13 associate circuit judges in St. Louis County, the 21st Judicial Circuit. The proposed legislation provides that the next five vacancies in associate circuit judgeships occurring after August 28, 2000 would be replaced with circuit judges. Vacancies occur when judges resign, retire, are not retained, or die. Thus, it is difficult to predict when vacancies will occur. CTS would be responsible for the difference in salary (currently \$87,235 for associates and \$98,947 for circuit judges or \$11,712). Since judicial salaries are above the social security cap and there would be no change in health insurance costs, the cost of fringe benefits on judicial salaries will be limited to any incremental retirement costs. CTS would be responsible for the salary of a court reporter authorized to circuit judges (per Section 485.040) at annual salary of \$46,706 each plus fringe benefits.

Oversight assumes it would be conceivable for a vacancy to occur at any time. The first scheduled vacancy in associate circuit judgeships to occur after August 28, 2000, would be in FY 2008 (mandatory retirement at age 70); however, unscheduled vacancies could occur at any time. For purposes of this fiscal note, Oversight has ranged the costs from zero to one vacancy for each fiscal year.

Officials from the **Office of the Circuit Clerk of St. Louis County** indicated the St. Louis County government would incur expenses for additional space needed for the additional court reporters. The amount of these expenses are indeterminable.

Oversight assumes this proposal could result in minimal fiscal impact for the 21st Judicial Circuit, as the office space, equipment, and operating costs for the court reporters would be local expenses. However, Oversight assumes these costs would be minimal and could be absorbed with existing resources.

Officials from the **Department of Labor and Industrial Relations - Division of Workers' Compensation (DOL)** assume the proposed legislation establishes responsibility in the Division of Workers' Compensation to administer and adjudicate claims of uncompensated tort victims

ASSUMPTION (continued)

against the Tort Victims' Compensation Fund.

The DOL will establish and maintain a Tort Victims' Compensation Unit to receive, process and make awards for uncompensated tort victims. The DOL will also establish and maintain a procedure to adjudicate these claims.

The impact of this program is very difficult to assess. In FY 98, the Office of the State Courts Administrator reported that 20,282 tort cases were disposed of. Over the last three fiscal years the average number of tort cases disposed of is 19,264 cases. This includes settlements, dismissals, defendants' verdicts, plaintiffs' verdicts, and default judgments. It is impossible to determine how many cases will result in a verdict for the plaintiff that are uncollectible. This type of data is not collected. It is also impossible to determine how many uninsured motorist claims will be filed as tort cases because of accessibility to these funds. Attempts to obtain this type of information were made with the Missouri Association of Trial Attorneys and the Missouri Department of Insurance.

Funding for this program on an ongoing basis is questionable. The statute provides for 65% of punitive damages awards in final judgments to be paid to the DOL into the Tort Victims' Compensation Fund. Currently, there are moneys over seven million dollars (\$7,000,000) in the Fund. This funding came from two unusual cases in Kansas City where the plaintiffs and defendants absolutely refused to settle the claim. This information is from the Attorney General's office. In most cases, the plaintiff and defendant settle any punitive damages, even after a jury award. This usually happens while the case is on appeal. Because the case is settled, there would be no final judgment and no payment to the Fund.

Since almost all cases involving tort claims involve claimant attorneys, it is assumed the potential for claims in cases of unsatisfied plaintiffs' judgements will be very high. For the purpose of this fiscal note, the DOL assumes 10% of all cases disposed of will result in claims against the fund. Based on information previously cited, this is an average of 1,926 claims filed per year ($19,264 \times 10\%$). This average is very close to the number of claims filed with the DOL Crime Victims' Compensation program each year. In FY 96 a total of 1,652 claims were disposed of, in FY 97 a total of 2,206 claims were disposed of, in FY 98 a total of 1,688 claims were disposed of by the Crime Victims' Compensation program.

DOL assumes the parameters of the Tort Victims' Compensation program in verifying medical, funeral and legal bills, verifying court action and other requirements to establish the validity of a claim under this proposal are also very similar to the manner in which crime victim's compensation claims are handled. For that reason, DOL assumed staffing needs similar to the

ASSUMPTION (continued)

Crime Victims' Compensation program would be needed to handle the claims process. This program must also have one legal counsel to ensure compliance with the statutory provisions and the myriad of legal issues involved in tort claims to ensure proper funding.

Oversight assumes 25% of all payments received by the Tort Victims' Compensation Fund will be transferred to the Legal Services for Low-Income People Fund created by this proposal.

Oversight assumes counties that do not currently have an order or ordinance in effect to fund a domestic violence shelter could adopt such an order or ordinance and generate additional revenue.

Officials from the **Office of Administration - Administrative Hearing Commission** stated the filing fee authorized by the proposed legislation would be determined after a review of cases filed and the costs related to filing these cases, taking into consideration any comments received during the rule making process. They were unable to predict the number of cases of this type that will be filed.

Officials from the **Office of the Attorney General** assume any costs associated with the proposed legislation could be absorbed by their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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GENERAL REVENUE FUND

<u>Cost - Missouri State Highway Patrol</u> Consultant Programming Costs	\$0 or (\$99,826)	\$0 or (\$59,895)	\$0 or (\$59,895)
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<u>Cost - Office of the State Court</u> Administrator			
Personal Service	\$0 to (\$48,682)	\$0 to (\$59,879)	\$0 to (\$61,376)
Fringe Benefits	<u>\$0 to (\$17,627)</u>	<u>\$0 to (\$21,680)</u>	<u>\$0 to (\$22,222)</u>

Total Cost - CTS	<u>\$0 to (\$66,309)</u>	<u>\$0 to (\$81,559)</u>	<u>\$0 to (\$83,598)</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 to (\$166,135)</u>	<u>\$0 to (\$141,454)</u>	<u>\$0 to (\$143,493)</u>
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**LEGAL SERVICES FOR
LOW-INCOME PEOPLE FUND**

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
Punitive damage awards - 25% of all payments received by the Tort Victims' Compensation Fund	Unknown	Unknown	Unknown
TORT VICTIMS' COMPENSATION FUND			
Punitive damage awards - 25% of all payments received to Legal Services for Low-Income People Fund	(Unknown)	(Unknown)	(Unknown)
<u>Costs - Labor and Industrial Relations</u>			
Personal Service	(\$153,488)	(\$192,151)	(\$200,483)
Fringe Benefits	(\$47,198)	(\$59,086)	(\$61,648)
Expense and Equipment	<u>(\$53,136)</u>	<u>(\$10,753)</u>	<u>(\$11,073)</u>
Total Costs - DOL	<u>(\$253,822)</u>	<u>(\$261,990)</u>	<u>(\$273,204)</u>
ESTIMATED NET EFFECT ON TORT VICTIMS' COMPENSATION FUND	<u>(\$253,822 to Unknown)</u>	<u>(\$261,990 to Unknown)</u>	<u>(\$273,204 to Unknown)</u>
ESTIMATED NET EFFECT ON ALL STATE FUNDS	<u>(\$253,822 to \$419,957)</u>	<u>(\$261,990 to \$403,444)</u>	<u>(\$273,204 to \$416,697)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>Revenue - Domestic Violence Shelter Fees</u>	Unknown	Unknown	Unknown

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation makes several changes to court procedures.

FEES

- 67.133 - Corrects current language regarding surcharges on certain crimes. Non-felony violations are charged a \$10 fee.
- 455.205 - Extends from 2000 to 2001 the time limitation that local governments may establish fees on marriage licenses and civil cases.
- 483.500 - Deletes requirement that defendants reimburse trial court costs to plaintiffs when plaintiffs lose at trial and pay court costs, but win in appeals court. Directs that costs will be payable to the general revenue fund.
- 514.440 - Sets surcharge on civil cases at \$15.
- 550.120 - Expands cost allocation in change of venue to include civil cases.

JUDICIAL AUTHORITY

- 43.503 - Judge shall order fingerprinting after sentencing for those not yet printed in the same case. Under current law a judge may only order fingerprinting upon the request of the prosecutor.
- 56.085 - Associate circuit judges are given the authority to issue subpoenas in criminal matters.
- 452.556 - Allows courts to include parenting plan handbook when filing or during service of process in divorce cases.
- 455.040 - Allows protection order information to be transmitted via automated system.
- 455.050 - Expands ability to issue restraining orders to include restrictions on entering premises to those "occupied" by the petitioner.
- 479.150 - Deletes obsolete statutory reference regarding municipal judges certifying jury trial criminal cases.
- 482.330 - Small court claims are currently limited to eight per person per year. The proposal keeps the current limit, but new enforcement is simplified. Any more than eight will be dismissed without prejudice.
- 517.011 - Increases to \$50,000 the level of civil cases filed before associate circuit judges.
- 534.070 - Allows court clerk to sign summons in unlawful detainer actions.

MISCELLANEOUS

The proposed legislation reclassifies five associate circuit judgeships to circuit judges in St. Louis County, the 21st Judicial Circuit, as vacancies occur in the associate judge positions.

DESCRIPTION (continued)

The proposed legislation creates the Legal Services for Low-Income People Fund which receives 25% of all payments to the Tort Victims' Compensation Fund. The treasurer is authorized to distribute money from the Legal Services for Low-Income People Fund to legal services

L.R. NO. 3007-03
BILL NO. SCS for SB 678 & 742
PAGE 8 OF 9
February 22, 2000

organizations in Missouri that receive federal Legal Services Corporation funding. Funds must be allocated according to the most recent official census data relating to the location of Missouri residents living at or below the poverty level.

In addition, the proposal authorizes the Division of Workers' Compensation to make awards to uncompensated victims from 75% of payments to the fund. Prevailing plaintiffs in civil tort cases who are unable to collect or enforce judgments are considered uncompensated tort victims under the proposal's provisions. Awards may not be greater than the amount determined by the jury for any plaintiff found to be contributorily or comparatively negligent. No award from the fund may exceed \$300,000. The proposal specifies procedures for filing claims and appealing determinations. If there are insufficient funds for the division to pay all claims, the claims must be paid on a pro rata basis.

The proposal also modifies procedures for the Attorney General to collect 50% of all punitive damage awards. Cases resolved by arbitration, mediation, or compromise settlement as well as attorneys' fees and expenses are not subject to the collection procedures.

303.041 - Expands the ability of the Director of Revenue to suspend a drivers' license based upon an order of supervision to maintain insurance. Current law limits the authority to orders of court supervision.

610.105 - This section would expand what shall be considered closed records under the Sunshine Law. Current law allows public access only to the disposition portion when a defendant is not prosecuted or found not guilty, and the arrest and case records are closed records. This section would include the disposition portion as a closed record when a defendant is not prosecuted or found not guilty.

The proposed legislation changes several measures regarding the Administrative Hearing Commission (AHC). The act would require the Department of Social Services to provide notice of a final judgment. The AHC would also be given authority to set reasonable fees in certain cases (motor vehicle and motorcycle franchises). It also removes procedural language found unconstitutional.

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 Attorney General
Office of the State Courts Administrator
Department of Labor and Industrial Relations

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L.R. NO. 3007-03
BILL NO. SCS for SB 678 & 742
PAGE 9 OF 9
February 22, 2000

Department of Public Safety - Missouri State Highway Patrol
Office of Administration - Administrative Hearing Commission



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February 22, 2000