

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

**L.R. NO.:** 3007-05  
**BILL NO.:** Perfected SS for SCS for SB 678 & 742  
**SUBJECT:** Courts; Civil Procedure  
**TYPE:** #Corrected  
**DATE:** April 19, 2000  
 # Corrected to include fiscal impact to Legal Services for Low-Income People Fund

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$1,217,222)	(\$1,273,945)	(\$900,576)
Tort Victims' Compensation	(\$253,822 to Unknown)	(\$261,990 to Unknown)	(\$273,204 to Unknown)
Legal Services for Low-Income People#	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on All State Funds*</b>	<b>(\$1,471,044)</b>	<b>(\$1,535,935)</b>	<b>(\$1,173,780)</b>

\* Does not include unknown cost of leased crime lab

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Local Government</b>	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 12 pages.

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**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.

*Orders of Protection - MULES*

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 that any costs associated with this legislation will be provided through federal grant money that is currently available for such purposes. Accordingly, MHP assumes no additional costs will result from the proposal.

*Tort Victims' Compensation Fund*

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 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

**ASSUMPTION** (continued)

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 x 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 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.

**ASSUMPTION** (continued)

*Domestic Violence Shelters*

**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.

*Administrative Hearing Commission*

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.

*DNA Testing*

Officials from the **Department of Public Safety - State Highway Patrol (MHP)** assume the proposal would require them to acquire and store all the biological case evidence specimens pertaining to felonies, as required under the database statute, for an unspecified amount of time.

In 1999 Missouri circuit court trials resulted in approximately 3,000 felony convictions meeting the database requirements; this may bring anywhere from 15,000 to 30,000 specimens per year, and this number would continue to grow since no time frame is specified. One of the crime lab's current evidence lockers is 230 square feet and stores approximately 5,000 specimens. Storing 30,000 specimens would require 6 times more space, or approximately 1,400 square feet. MHP would need a secure facility. This storage facility would need to be approximately 1,400 square feet.

The DNA convicted offender lab is 1,081 square feet and accommodates two capillary electrophoresis systems. If MHP were to analyze just 5,000 casework specimens per year, the caseload would increase ten-fold and would require five times the current manpower, leading to the need for a new lab and FTEs. MHP would need a new crime lab of 7,000 square feet to accommodate the new FTE. MHP assumes it would require 3 FTE Laboratory Evidence Technicians, 2 FTE Laboratory Records and Evidence Control Clerks, 5 DNA Technicians, 13 DNA Examiners, and 2 DNA Examiner Supervisors, plus related equipment and expense for each position.

**Oversight** assumes, based on DOC's assumptions, that there are 8,613 inmates serving sentences

**ASSUMPTION** (continued)

which fall under the felony provisions of the proposal. If 20% of those currently serving wish to serve notice to the prosecuting attorney and the trial court subsequently orders the state to compare DNA test results regarding the trial evidence and the defendant, MHP would be subjected to approximately 1,720 more cases. Allowing three pieces of evidence per case would bring the total additional specimen count to 5,160. Currently, MHP utilizes six FTE to perform DNA testing on approximately 3,000 specimens. To perform DNA testing on the additional specimens, Oversight assumes MHP would require 10 DNA Examiners plus the related equipment for each position. Oversight assumes there would be an increase in caseload during FY 2001 and FY 2002 as inmates begin utilizing this provision. The rush would likely subside by FY 2003; therefore, Oversight has included costs for FTE during FY 2001 and FY 2002 only. Oversight assumes MHP would lease crime lab space and equipment for FY 2001 and FY 2002; however, cost estimates are not available at this time and are reflected in this fiscal note as unknown. In addition, Oversight assumes MHP would require a storage facility for the additional DNA evidence it would be required to maintain.

Officials from the **Department of Corrections (DOC)** assume it is not possible for DOC to estimate the number of cases that would occur in a year where this proposed DNA procedure would apply. Potentially, there are many thousands of offenders who could have an interest in pursuing a DNA evidence defense as the DNA analysis technology progresses over time. Looking only at the current inmate population for inmates confined for sex offenses and for inmates confined for offense categories that would be considered as Dangerous Felonies, DOC has 8,613 persons in prison that may fit into that group. DOC's responsibility in this matter extends beyond confined inmates and would also include persons on parole or on probation and this number is not included in the 8,613 figure noted in the above assumption.

The minimum cost for DNA forensic testing is \$450. DOC estimates the potential cost could be significant or in excess of \$100,000 annually.

**Oversight** assumes the costs for DNA testing will be incurred by the Missouri State Highway Patrol (MHP). Those costs are reflected in MHP's response.

Officials from the **Office of Prosecution Services** assume the cost of the proposed legislation is unknown as it depends on utilization by local prosecutors. **Oversight** assumes these costs could be absorbed with existing resources.

*Small Claims Court*

Regarding the increased level of small claims court jurisdiction from \$3,000 to \$5,000, officials

**ASSUMPTION** (continued)

from the **Office of the State Courts Administrator (CTS)** stated that in fiscal year 1999, there were approximately 69,000 associate civil tort and contract cases. CTS estimates that approximately one-half of these cases were under \$5,000 and, under this proposal would now be filed in small claims court, or approximately 34,500 additional small claims cases.

The filing fee for small claims court is \$10 and for an associate civil case is \$40. Of these amounts, the state receives 80% and counties receive 20%. Thus, for each associate civil case that is shifted to a small claims case, the state loses \$24 and the county loses \$6. If there are 34,500 associate civil cases transferred from associate court to small claims court, the state would lose \$828,000 and local government would lose \$207,000. CTS does not assume that the loss of revenue would increase during the time period of the fiscal note.

Additionally, small claims court clerks are required to assist parties in completing forms and explaining procedures. CTS states that such a process is time consuming and requires considerable ability to perform effectively. This imposed statutory duty would be estimated to require an additional 9.72 FTE at \$22,164 for court clerks per full fiscal year to implement the provisions of the proposed legislation.

**Oversight** assumes that although there would be a workload increase as a result of this proposal to small claims court personnel, there would also be a corresponding decrease in workload for associate court personnel because of the decreased case load. Oversight assumes, therefore, that any additional increased costs because of the increased workload could either be absorbed with existing personnel through the transfer of responsibilities or requested through the normal and customary budget process if need be.

*Interest Income on Circuit Court Funds*

Officials from the **Office of the State Courts Administrator (CTS)** could not estimate the amount of interest income that would be lost for local circuit clerk offices as a result of changes to Section 483.310. The amount of funds on deposit with the local circuit clerks would vary significantly among the circuits and the resulting amount of interest income could not be reasonably estimated but would be expected to easily exceed \$100,000.

*Non-Attorney Representation*

Officials from the **Office of the Attorney General (AGO)** assume they would need one additional FTE Assistant Attorney General I (\$31,500 per year), equipment and operating expenses to carry out the provisions of the proposed legislation regarding non-attorneys

**ASSUMPTION** (continued)

representing corporations before the Administrative Hearing Commission with an estimated cost of approximately \$54,000 per full fiscal year to the General Revenue Fund.

AGO provides legal representation for the majority of state agencies in proceedings before the Administrative Hearing Commission. For example, the **Division of Liquor Control** imposes approximately 500 license suspensions per year, most of which are currently not appealed to the Administrative Hearing Commission. It is anticipated that the proposed legislation would result in an increase in the number of suspensions appealed and would require additional representation from the AGO.

In response to a similar proposal, officials from the **Department of Social Services - Division of Legal Services** assumed corporations could prolong the length of hearings by non-attorneys being allowed to make objections, present evidence, etc. If the Division of Legal Services experiences a significant increase in staff time and resources to implement this proposal, there could be a corresponding budget request.

Officials from the following agencies assume that costs incurred as a result of the provision would be zero to minimal and could be absorbed within their respective budgets: **Department of Natural Resources, Office of Administration, Department of Agriculture, Department of Conservation, Department of Corrections, Department of Economic Development, Department of Elementary and Secondary Education, Department of Health, Department of Higher Education, Department of Labor and Industrial Relations, Missouri Department of Transportation, Department of Insurance, Department of Mental Health, Department of Public Safety, Department of Revenue, Department of Social Services, and Office of State Courts Administrator.**

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

**GENERAL REVENUE FUND**

*DNA TESTING*

<u>Cost - Missouri Highway Patrol (MHP)</u>			
Personal Service (25 FTE)	(\$220,200)	(\$270,846)	\$0
Fringe Benefits	(\$84,513)	(\$103,951)	\$0
Equipment and Expense	<u>(\$31,520)</u>	<u>(\$16,520)</u>	<u>(\$16,520)</u>
Subtotal Cost - MHP	(\$336,233)	(\$391,317)	(\$16,520)

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<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
Lease Crime Lab and Equipment	(Unknown)	(Unknown)	\$0
Total Cost - MHP	(\$336,233 to Unknown)	(\$391,317 to Unknown)	(\$16,520)
<i>SMALL CLAIMS COURT</i>			
<u>Lost Revenue</u> - Office of the State Courts Administrator			
Transfer of associate civil cases	(\$828,000)	(\$828,000)	(\$828,000)
<i>NON-ATTORNEY REPRESENTATION</i>			
<u>Cost</u> - Office of the Attorney General			
Personal Service (1 FTE)	(\$26,250)	(\$32,288)	(\$33,095)
Fringe Benefits	(\$8,072)	(\$9,928)	(\$10,177)
Equipment and Expense	(\$18,667)	(\$12,412)	(\$12,784)
Total Cost - AGO	<u>(\$52,989)</u>	<u>(\$54,628)</u>	<u>(\$56,056)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*</b>	<u>(\$1,217,222)</u>	<u>(\$1,273,945)</u>	<u>(\$900,576)</u>
* Does not include unknown cost of leased crime lab and equipment			
<b>TORT VICTIMS' COMPENSATION FUND</b>			
<u>Transfer</u> - Punitive damage awards - 25% of all payments received to Legal Services for Low-Income People Fund			
	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> - Labor and Industrial Relations			
Personal Service	(\$153,488)	(\$192,151)	(\$200,483)
Fringe Benefits	(\$47,198)	(\$59,086)	(\$61,648)
Expense and Equipment	(\$53,136)	(\$10,753)	(\$11,073)
Total Costs - DOL	<u>(\$253,822)</u>	<u>(\$261,990)</u>	<u>(\$273,204)</u>

KAF:LR:OD:005 (9-94)



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<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<b>ESTIMATED NET EFFECT ON TORT VICTIMS' COMPENSATION FUND</b>	<u>(\$253,822 to Unknown)</u>	<u>(\$261,990 to Unknown)</u>	<u>(\$273,204 to Unknown)</u>

**LEGAL SERVICES FOR LOW-INCOME PEOPLE FUND#**

<u>Revenue</u> - Punitive damage awards - 25% of all payments received by the Tort Victims' Compensation Fund	Unknown	Unknown	Unknown
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<b>ESTIMATED NET EFFECT ON ALL STATE FUNDS**</b>	<b><u>(\$1,471,044)</u></b>	<b><u>(\$1,535,935)</u></b>	<b><u>(\$1,173,780)</u></b>
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\*\* Does not include unknown cost of leased crime lab

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>Lost Revenue</u> - Interest earned on funds placed in the registry of the circuit court	(Unknown)	(Unknown)	(Unknown)
<u>Lost Revenue</u> - Transfer of associate civil cases to small claims court	(\$207,000)	(\$207,000)	(\$207,000)
<u>Revenue</u> - Domestic Violence Shelter Fees	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.

#The proposed legislation creates the Legal Services for Low-Income People Fund which may receive up to 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 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.

DESCRIPTION (continued)

#In addition, the proposal authorizes the Division of Workers' Compensation to make awards to uncompensated victims from 75% of payments to the Tort Victims' Compensation 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.

Current law requires the Department of Corrections or Highway Patrol to ensure compliance with DNA testing requirements for certain violent or sexual felonies. This proposal requires the Department of Public Safety to preserve any evidence from the criminal trial which has been or can be subject to DNA testing. It also allows a defendant convicted of violent or sexual felonies requiring testing to make a post-conviction motion for DNA testing of evidence from trial. The defendant must establish a prima facie case that identity was contested in the criminal case. If granted, the state shall compare DNA test results regarding the trial evidence and the defendant

The proposed legislation would modify the authority of traffic court judges in St. Louis County. Currently, the presiding judge of the circuit court may assign certain trial de novo cases relating

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DESCRIPTION (continued)

to department of revenue and director of revenue decisions to traffic court judges. This proposal would no longer allow traffic court judges to hear these types of cases.

The proposal would allow corporations to designate an individual who is not an attorney to represent them in any proceeding before the Administrative Hearing Commission or any other state agency. Such representation would not be deemed to be the practice of law.

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  
Department of Public Safety - Missouri State Highway Patrol  
Office of Administration - Administrative Hearing Commission  
Department of Corrections  
Office of Prosecution Services  
Department of Social Services - Division of Legal Services  
Department of Natural Resources  
Department of Agriculture  
Department of Conservation  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Health  
Department of Higher Education  
Department of Transportation  
Department of Insurance  
Department of Mental Health  
Department of Revenue



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Director  
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