

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3212-01  
Bill No.: SB 819  
Subject: Crimes and Punishment; Children and Minors; Evidence; Criminal Procedure  
Type: Original  
Date: January 28, 2002

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	\$0	(\$36,567)	(\$23,570)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>(\$36,567)</b>	<b>(\$23,570)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
<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 LOCAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Public Defender** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposed legislation would have no fiscal impact on prosecutors.

Officials from the **Department of Social Services (DOS)** assume increasing the minimum age to impose the death penalty from 16 to 18 would have no fiscal impact on the DOS. Juvenile Courts do not impose death penalties. If a prosecutor were seeking the death penalty, he would first have the "child" certified as an adult and tried in the Circuit Court. A conviction for first degree murder would not likely fall under the dual jurisdiction provisions. Therefore, any cost or savings as a result of death versus imprisonment would not affect the Division of Youth Services.

Officials from the **Department of Corrections (DOC)** assume the proposal requires offenders to be 18 years of age, rather than the current 16 years of age, to receive a Capital Punishment (CP) sentence. DOC currently has two death row inmates whose age at the commission of their crime was less than 18 years of age. One was incarcerated at the beginning of FY 93 and the second one near the beginning of FY 94.

As written, this proposal does not contain a retroactive clause and, therefore, would not affect current death row or CP inmates as per §1.160, RSMo. In that instance, only future commitments would be affected. Since DOC already houses these offenders an average of 10 years, the fiscal impact would be beyond the scope of this fiscal note.

DOC assumes, that should this legislation pass, and as a matter of change to public policy, that clemency (in the form of life without parole) would be granted rather than executing the 2 current death row inmates who would have been less than the now legal 18 years of age at the time of their crime commission. These inmates would then be serving the remainder of their life incarcerated within the DOC rather than only the average 10 years between the start of their commitment and their execution. The effect of passage of this proposal for DOC would then begin in their 11<sup>th</sup> year of incarceration, FY 04 and FY 05. This would be offset by the execution cost. These costs are shown in the following charts:

ASSUMPTION (continued)

<b>Death Penalty Age Limit Raised to 18 Assumptions</b>			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses (death row)	44.80	365	16,352
Construction (C4 or C5 \$55,000)			55,000
Execution Cost Savings	one-time		(44,558)
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

	<b>End FY Population</b>	<b>Average Population</b>	<b>Execution Expense</b>	<b>Operating Expense</b>	<b>Construction Expense</b>	<b>Total Cost w/ Inflation</b>
FY 2002	0	(current year which will have no costs incurred)				
FY 2003	0	0	0	0	0	0
FY 2004	1	1	(44,558)	16,352	0	(36,567)
FY 2005	2	2	(44,558)	32,704		(23,570)

The DOC estimates the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- ▶ \$44.80 (FY 01 cost) CP inmate per capita costs for with an inflation rate of 3% per each subsequent year.

The DOC is unable to estimate the potential need for additional capital improvements. Estimated construction cost for one new medium to maximum security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

ASSUMPTION (continued)

The long-range fiscal impact to the DOC would be as follows:

	End FY Population	Average Population	Execution Expense	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2006	2	2	0	32,704	0	36,809
FY 2007	2	2	0	32,704	0	37,913
FY 2008	2	2	0	32,704	0	39,050
FY 2009	2	2	0	32,704	0	40,222
FY 2010	2	2	0	32,704	0	41,428
FY 2011	2	2	0	32,704	0	42,671
FY 2012	2	2	0	32,704	0	43,951
<b>Total Ten-Year Fiscal Impact:</b>						<b>221,907</b>

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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**GENERAL REVENUE FUND**

Costs – Department of Corrections

Additional Incarcerates	\$0	(\$36,567)	(\$23,570)
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<b>ESTIMATED NET EFFECT TO GENERAL REVENUE FUND</b>	<b>\$0</b>	<b>(\$36,567)</b>	<b>(\$23,570)</b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

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

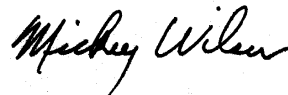
DESCRIPTION

The proposed legislation would raise the age limit for the death penalty from 16 to 18.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space. This legislation would not affect Total State Revenue.

SOURCES OF INFORMATION

Office of State Courts Administrator  
Department of Social Services  
Office of Prosecution Services  
Office of State Public Defender  
Department of Corrections



Mickey Wilson, CPA  
Acting Director

January 28, 2002