

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0998-01
Bill No.: SB 312
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: March 7, 2003

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|------------------|-------------------|-------------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| General Revenue | (\$9,675) | (\$27,808) | (\$36,757) |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | (\$9,675) | (\$27,808) | (\$36,757) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| None | | | |
| | | | |
| Total Estimated Net Effect on Other State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| None | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| Local Government | \$0 | 0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Attorney General, Department of Social Services, Department of Public Safety – Missouri State Highway Patrol**, and the **Office of State Public Defender** assume the proposed legislation would have no fiscal impact on their agencies.

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 prosecutors could absorb the costs of the proposed legislation within existing resources.

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.

ASSUMPTION (continued)

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 11th year of incarceration, FY 04 and FY 05. This would be offset by the execution cost. These costs are shown in the following charts:

| Death Penalty Age Limit Raised to 18 Assumptions | | | |
|---|-----------------------------|--------------------|---------------------|
| | <u>Cost</u> | <u>Days</u> | <u>Total</u> |
| Operating Expenses (death row) | 46.08 | 365 | 16,819 |
| Construction (C4 or C5 \$55,000) | | | 55,000 |
| Execution Cost Savings | one-time per CP Offender | | (7,426) |
| Operating Inflation (3.0%) | | | 1.030 |
| Emer. Hsng. Inflation (10%) | | | 1.100 |
| Construction Inflation (3.0%) | | | 1.030 |

ASSUMPTION (continued)

| | End FY Population | Average Population | Execution Offset | Operating Expense | Construction Expense | Total Cost w/ Inflation |
|--------------------------------------|----------------------|--|---------------------|----------------------|-------------------------|----------------------------|
| FY 2003 | 0 | (current year which will have no costs incurred) | | | | |
| FY 2004 | 1 | 1 | (7,426) | 16,819 | 0 | 9,675 |
| FY 2005 | 1 | 1 | (7,426) | 33,638 | 0 | 27,808 |
| FY 2006 | 2 | 2 | 0 | 33,638 | 0 | 36,757 |
| FY 2007 | 2 | 2 | 0 | 33,638 | 0 | 37,860 |
| FY 2008 | 2 | 2 | 0 | 33,638 | 0 | 38,996 |
| FY 2009 | 2 | 2 | 0 | 33,638 | 0 | 40,166 |
| FY 2010 | 2 | 2 | 0 | 33,638 | 0 | 41,370 |
| FY 2011 | 2 | 2 | 0 | 33,638 | 0 | 42,612 |
| FY 2012 | 2 | 2 | 0 | 33,638 | 0 | 43,890 |
| FY 2013 | 2 | 2 | 0 | 33,638 | 0 | 45,207 |
| Total Ten-Year Fiscal Impact: | | | | | | 364,341 |

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:

- ▶ \$46.08 (FY 02 cost) CP inmate per capita costs for with an inflation rate of 3% per each

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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.

| <u>FISCAL IMPACT - State Government</u> | FY 2004 (10 Mo.) | FY 2005 | FY 2006 |
|---|-------------------------|--------------------------|--------------------------|
| GENERAL REVENUE FUND | | | |
| <u>Costs – Department of Corrections</u> | | | |
| Additional Incarcerates | <u>(\$9,675)</u> | <u>(\$27,808)</u> | <u>(\$36,757)</u> |
| ESTIMATED NET EFFECT TO GENERAL REVENUE FUND | <u>(\$9,675)</u> | <u>(\$27,808)</u> | <u>(\$36,757)</u> |
| <u>FISCAL IMPACT - Local Government</u> | FY 2004 (10 Mo.) | FY 2005 | FY 2006 |
| | <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.

DESCRIPTION

The proposed legislation would change the minimum age of the defendant for the crime for murder in the first degree from sixteen to eighteen.

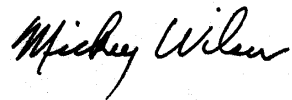
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Office of Attorney General
Office of State Courts Administrator
Department of Corrections
Department of Social Services
Department of Public Safety
 – Missouri State Highway Patrol
Office of Prosecution Services
Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
March 7, 2003