

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1563-01
Bill No.: SB 446
Subject: Attorneys; Circuit Clerk; Courts; Juvenile Courts; Criminal Procedure; Civil Procedure; Fees; Judges; Juries; Law Enforcement Officers and Agencies
Type: Original
Date: March 3, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(Unknown) to \$389,633	(Unknown) to \$467,790	(Unknown) to \$468,024
Total Estimated Net Effect on General Revenue Fund	(Unknown) to \$389,633	(Unknown) to \$467,790	(Unknown) to \$468,024

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Highway	(Unknown)	(Unknown)	(Unknown)
Road	(Unknown)	(Unknown)	(Unknown)
Statewide Court Automation	Unknown to \$640,000	Unknown to \$768,000	Unknown to \$768,000
Total Estimated Net Effect on Other State Funds	(Unknown) to \$640,000	(Unknown) to \$768,000	(Unknown) to \$768,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Federal	\$0	\$0	\$0
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	Unknown to \$960,000	Unknown to \$1,152,000	Unknown to \$1,152,000

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections, Department of Public Safety, Office of Secretary of State, State Treasurer's Office, Jefferson County Commission, Jefferson County Sheriff's Department, and the St. Louis County Sheriff's Department** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would revise various court administrative sections, including fee payments, filing procedures, cost assessments, and fine collections. CTS assumes there are two provisions that will have a fiscal impact, and one that will not despite the restriction of fee assessments.

ASSUMPTION (continued)

The first provision that would have a significant fiscal impact to CTS is contained in §488.5025. This section would allow a court to assess an additional \$25 fee for penalties, fines, and sanctions not paid in full within 30 days of imposition. Depending on the rate of assessment and collection, the range of possible collections is from \$1.25 million to \$2.4 million. The first figure, \$1.25 million, is based upon a 20% to 25% collection on misdemeanor and felony cases, and 10% on traffic. The second figure, \$2.4 million, is based on a collection rate of 50% of felonies and 75% of misdemeanors, and is the less likely amount of the two estimates.

The legislation also provides that the courts shall appoint qualified interpreters and translators in all legal proceedings in which the non-English speaking person is a party or a witness. If the person requiring an interpreter or translator during the proceeding is a party to or a witness in any criminal proceeding, a party to, a witness, or the parent or guardian of the juvenile in any juvenile proceeding, any juvenile investigation or interview, including intake conferences, informal adjustment conferences, pre-hearing conferences with parents, attorneys, and juvenile officers, or a party to or a witness in any domestic violence action commenced pursuant to sections 455.500 to 455.538, RSMo, such fees and expenses shall be payable by the state pursuant to a fee schedule developed by the office of the state courts administrator and from funds appropriated to the office of the state courts administrator. CTS has no way of exactly estimating the amount that this provision will cost. Based on the costs that are being paid for interpreters now, CTS will estimate that the cost may be between \$10,000 and \$25,000 for adults and between \$10,000 and \$25,000 for juveniles.

Finally, the legislation would also modify various provisions relating to the filing of orders of protection, including prohibiting the assessment of filing fees, court costs, or bonds for orders of protection. Because of the low rate of assessment and collection of costs and fees, for these cases, this bill would neither cost nor save a significant amount of revenue for the judiciary. (Federal law currently prohibits the assessment of costs and fees to the petitioner.)

Oversight assumes a \$25 fee for penalties, fines, and sanctions not paid within 30 days of imposition would result in an increase in fine revenue to counties to improve the administration of justice, an increase in the Statewide Court Automation Fund, and an increase in the General Revenue Fund.

ASSUMPTION (continued)

Officials from the **Department of Labor and Industrial Relations (DOL)** assume proposed §488.5339.1, RSMo, increases from \$5 to \$7.50 the surcharge assessed in certain criminal court proceedings and deposited to the credit of the Crime Victims' Compensation Fund. In 2001, Senate Bill 267, provided for the identical increase in §595.045, RSMo. Since the proposed language is used to reference existing §595.045, RSMo, this bill simply provides continuity in language between the two statutory sections by updating §488.5339.1, RSMo. Based on the authority in Senate Bill 267, the increased surcharge was in effect on August 28, 2001. Consequently, proposed §488.5339.1, RSMo, has no fiscal impact.

The DOL assumes proposed §595.45.8, RSMo, requires that in addition to convictions, which are presently included, pleas of guilty and findings of guilt entered in certain felony and misdemeanor criminal cases be subject to fines earmarked to the Crime Victims' Compensation Fund. Since pleas of guilty are presently entered as convictions by Missouri's circuit courts, this provision will only increase revenue into the fund in cases where a suspended imposition of sentence (SIS) are entered by the court. While the DOL cannot estimate the number of class A or B felonies, class C or D felonies, or misdemeanor cases that are resolved with a suspended imposition of sentence, the DOL believes that this provision will significantly increase fund revenue. Conservatively, the Department assumes that this provision will provide at least \$100,000 of additional revenue.

Finally, the DOL assumes proposed §595.045.8, RSMo, simply changes the statutory section that currently lists the inclusion of crimes that are subject to fines payable to the Crime Victims' Compensation Fund to a list that excludes the crimes that are not payable into the fund. This simple change in statutory wording has no fiscal impact.

This proposal also repeals §§595.045.9 and 595.045.10, RSMo, eliminating the requirement subjecting county circuit court records of payment surcharge and fine payments into the fund to a an audit by the State Auditor and eliminating the mandatory reporting of delinquent surcharge and fine payments by county clerks to the Department of Revenue. The fiscal impact of these provisions is impossible to determine.

The fiscal impact of the entire proposal is to the Crime Victims' Compensation Fund nearly impossible to determine. For purposes of this fiscal note, the DOL assumes that all provisions will balance one another out and the overall fiscal impact will be \$0.

ASSUMPTION (continued)

Officials from the **Department of Transportation (MoDOT)** assume the legislation modifies various court and court related procedures. MoDOT assumes §§57.290 (omission of sheriffs charge for services) and 476.810 (expense of interpreter payable by the state) would have a negative fiscal impact on their department. MoDOT is not able to determine the amount. Therefore, MoDOT assumes an unknown cost to the Highway Fund and the Road Fund.

Officials from the **Department of Revenue (DOR)** assume the proposed legislation would result in additional mailings and additional postage. The costs to the DOR are unknown.

Officials from the **Department of Social Services (DOS)** state the Division of Child Support Enforcement (DCSE) currently sends a copy of an administrative wage withholding on a non-custodial parent to the circuit clerk of the appropriate court when the withholding is implemented. The proposed legislation would eliminate that requirement, resulting in reduced office supply and postage costs. DCSE estimates the savings to the General Revenue Fund to be \$6,300 in FY 04; \$7,790 in FY 05; and \$8,024 in FY 06. DCSE estimates the savings to Federal Funds to be \$12,230 in FY 04; \$15,122 in FY 05; and \$15,576 in FY 06.

Oversight assumes the DOS would experience a reduction in revenue to Federal Funds equal to the savings, resulting in a fiscal impact of \$0 per fiscal year.

FISCAL IMPACT - State Government

FY 2004
 (10 Mo.)

FY 2005

FY 2006

GENERAL REVENUE FUND

Revenues – Department of Revenue

Time payment fee (§488.5025)

Unknown to
 \$400,000

Unknown to
 \$480,000

Unknown to
 \$480,000

Savings – Department of Social Services

Reduced copying and postage
 (§454.505)

\$6,300

\$7,790

\$8,024

Costs – Office of State Courts
 Administrator

Interpreter/translator fees (§476.810)

(\$16,667 to
 \$41,667)

(\$20,000 to
 \$50,000)

(\$20,000 to
 \$50,000)

Costs – Department of Revenue

Increased postage

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
 GENERAL REVENUE FUND**

**(Unknown) to
\$389,633**

**(Unknown) to
\$467,790**

**(Unknown) to
\$468,024**

HIGHWAY FUND

Costs – Department of Transportation

Interpreter costs (§476.810)

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
 HIGHWAY FUND**

(Unknown)

(Unknown)

(Unknown)

ROAD FUND

Costs – Department of Transportation

Interpreter costs (§476.810)

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
ROAD FUND**

(Unknown)

(Unknown)

(Unknown)

**STATEWIDE COURT
AUTOMATION FUND**

Revenues – Office of State Courts
Administrator

Time payment fee (§488.5025)

Unknown to
\$640,000

Unknown to
\$768,000

Unknown to
\$768,000

**ESTIMATED NET EFFECT ON
STATEWIDE COURT
AUTOMATION FUND**

**Unknown to
\$640,000**

**Unknown to
\$768,000**

**Unknown to
\$768,000**

FEDERAL FUNDS

Savings – Department of Social Services
Reduced copying and supplies
(\$454.505)

\$12,230

\$15,122

\$15,576

Loss – Department of Social Services
Reduced Federal Funds (§454.505)

(\$12,230)

(\$15,122)

(\$15,576)

**ESTIMATED NET EFFECT ON
FEDERAL FUNDS**

\$0

\$0

\$0

FISCAL IMPACT - Local Government

FY 2004
(10 Mo.)

FY 2005

FY 2006

COUNTIES

Revenues – Counties
Time payment fee (§488.5025)

Unknown to
\$960,000

Unknown to
\$1,152,000

Unknown to
\$1,152,000

**ESTIMATED NET EFFECT ON
LOCAL GOVERNMENTS**

**Unknown to
\$960,000**

**Unknown to
\$1,152,000**

**Unknown to
\$1,152,000**

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 modify a number of provisions relating to court procedures:

DEFINITION OF COURT – Define “court” in terms of tax credits and refunds. (Section 143.782)

CHILD SUPPORT ENFORCEMENT AWARDS – Delete the requirement that the Division of Family Services must file all income withholding orders with the circuit clerk in child support cases. (Section 454.505)

PROTECTIVE ORDERS – No filing fees would be assessed to a petitioner in an action seeking a protective order. Once an order is filed, the clerk would issue a copy, as well as any subsequent order of termination, to the local law enforcement agency responsible for maintaining the Missouri uniform law enforcement system (MULES). Copies of the petition and date for hearing would be issued to the local juvenile office. (Section 455.027 and 455.504)

LEGAL FEES – A court could order a party to pay the other party’s guardian ad litem fees. A court could also order a respondent to pay a reasonable amount for attorney’s fees and guardian ad litem fees incurred prior to commencement of proceeding or after entry of judgment, depending on the financial resources of both parties. (Sections 455.075 and 455.536)

STATE COURT ADMINISTRATION REVOLVING FUND – Any moneys received in connection with preparation of court transcripts would be deposited in the fund. (Section 476.058)

FINE COLLECTION CENTER – This would expand the Fine Collection Center to accept tickets for littering. (Section 476.385)

BLG:LR:OD (12/02)

FOREIGN LANGUAGE INTERPRETERS/TRANSLATORS – Courts would appoint qualified interpreters in all legal proceedings where party or witness is non-English speaker. The proposal would provide that interpreters and translators cannot be compelled to testify to information that is otherwise attorney-client privileged. The interpreter/translator would be allowed a reasonable fee and the proposal would provide when that fee shall be paid by the Office of State Courts Administrator. (Sections 476.800, 476.805, and 476.810)

DESCRIPTION (continued)

JUDICIAL FINANCE COMMISSION – This proposal would modify the annual report of the Commission to include separate information on all divisions of the circuit court of each county, including the probate division. (Section 477.600)

COURT FEES AND SURCHARGES – The proposal would delete the requirement that any changes in court surcharges become effective on certain dates after notification of OSCA. (Section 488.426)

FEE FOR FUNDING FOR SHELTERS – The proposal would remove the expiration date for counties to impose a fee on marriage licenses and surcharges on civil cases to provide funding for shelters. (Section 488.445)

FAMILY SERVICES AND JUSTICE FUND – The proposal would provide that the judgment collected in juvenile proceedings is payable to the fund. The surcharge would only be assessed to the respondent. (Section 488.2300)

CRIME VICTIMS' COMPENSATION JUDGEMENT AND COUNTY FEE – The fee payable in felony and nonfelony criminal violations would be paid upon the plea of guilty or upon a finding of guilt. Exceptions would be made for certain misdemeanors. The surcharge for the crime victims' compensation fund would be increased from \$5 to \$7.50. (Sections 57.290, 488.4014, 488.5320 and 595.045)

TIME PAYMENT FEE – The proposal would create the time payment fee. Courts could impose such a fee of \$25 on all fines, fees, or sanctions not paid in full within 30 days. The proposal would provide for distribution of the fee to the local court, court automation fund, and general revenue fund. (Section 488.5025)

COLLECTION OF COURT COSTS THROUGH SET-OFF – Allow a court to collect unpaid court costs in excess of \$25 by seeking a set-off of the person's tax refund. A court could contract with a private or public agency to collect on past due court ordered penalties. (Sections

488.5028 and 488.5030)

MASTER JURY LIST - Beginning July 1, 2004, the names on the master jury list would be chosen from certain source lists. The names of potential jurors on the list would not be considered a public record. (Section 494.410)

JUDGEMENTS IN ASSOCIATE CIRCUIT COURT – Would allow judgement in associate circuit court to be lien on real estate if judgment is final and not appealed. (Section 511.350)

DESCRIPTION (continued)

ABSTRACTS – Would require clerk of each division of circuit court to enter abstract of judgement within five days of rendition. (Section 511.510)

SUMMONS IN LANDLORD-TENANT ACTIONS – Would delete the requirement that the summons be sent to the defendant by certified mail. (Section 535.030)

UNIFORM LAW ENFORCEMENT SYSTEM RECORDS – The proposal would modify the types of case dispositions that must be reported. (Section 577.051)

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 State Courts Administrator
Department of Transportation
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety
Office of Secretary of State
State Treasurer's Office
Jefferson County Commission
Jefferson County Sheriff's Department
St. Louis County Sheriff's Department

BLG:LR:OD (12/02)

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

Mickey Wilson, CPA
Director
March 3, 2003