

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1637-03
Bill No.: HCS for SB 469
Subject: Circuit Clerk; Courts; Judges; Landlords and Tenants
Type: Updated#
Date: April 24, 2003

#Updated to reflect Missouri State Highway Patrol's revised response to similar legislation and to correct the fiscal impact to the Statewide Court Automation Fund.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
None			
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Criminal Record System#	\$127,485	\$28,047	\$28,038
Statewide Court Automation*#	\$0	\$0	\$0
Highway	(\$6,360)	\$0	\$0
Total Estimated Net Effect on Other State Funds#	\$121,125	\$28,047	\$28,038

#* Expenses associated with the statewide court automation project would likely equal income; therefore, net effect is zero.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 14 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	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Commissioner’s Office, – Administrative Hearing Commission, Department of Transportation, Department of Corrections, Department of Labor and Industrial Relations, Department of Conservation, Missouri House of Representatives, Missouri Senate, Office of Secretary of State, and the Office of the State Treasurer** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of Attorney General** did not respond to Oversight’s request for fiscal impact. However, in response to a previous version of the proposal, officials assumed the costs of the proposed legislation could be absorbed within existing resources.

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.

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ASSUMPTION (continued)

The legislation would extend the sunset of the Statewide Court Automation Fund fee from 2004 to 2005. The sunset on the court automation committee is extended to 2011. The fund realized \$4,341,979 in FY 02, and projected to realize \$4,523,956 in FY 03. While CTS cannot predict absolutely the future income to this fund, CTS assumes that it will be approximately \$4,450,000 per year.

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.)

Officials from the **Department of Social Services – Division of Child Support Enforcement (DCSE)** assume this bill, if enacted, would prevent DCSE from performing modifications of judicial child support orders via administrative process. Such prohibition could require DCSE to utilize services of staff attorneys and county prosecuting attorneys for such modifications. This would slow down the process, but DCSE does not expect federal funding to be jeopardized. DCSE has determined that passage of this legislation will not require the commitment of additional resources or require additional FTE. DCSE could perform the modifications with current resources and still be in federal compliance. Therefore, this provision would have no fiscal impact.

DCSE assumes the changes to section 454.470 would allow the director to issue a notice and finding of financial responsibility to a parent owing child support only if a court order has not been previously entered against that parent or if a support order from another state has been entered, but is not recognized in this state. This provision will have no adverse impact upon the Department of Social Services.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume Section 43.530 would have a fiscal impact on the MHP.

The MHP's Information Systems Division (ISD) anticipates an increase in the number of additions and modifications at the State Data Center based on the number of checks created by the proposed legislation. ISD estimates that the number of fingerprint backgrounds would increase by 9,150 in FY04, and then by 2,013 for the following years. This would require 9,150 applicant/participant records be created and modified in the first year, and 2,013 for each year after.

ASSUMPTION (continued)

For every background check, there is an inquiry and response to both the state data center and the FBI, which results in at least 4 CICS transactions per background check. Estimating that it takes 20 times more service units for creation/modification than just an average inquiry, ISD estimates the total State Data Center charges for FY 04 to be \$615.03 per year.

CICS service unit rate	$.02240/1000 \times 9,150 \times 126$ (avg per trans) x 20 =	\$516.50
DB2 service unit rate	$.00580/1000 \times 9,150 \times 48$ (avg per trans) x 20 =	<u>\$50.95</u>

Total FY 04 State Data Center Charges - ISD	\$615.03
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ISD estimates the total State Data Center charges for FY 05 and beyond to be \$135.31 per year.

CICS service unit rate	$.02240/1000 \times 2,013 \times 126$ (avg per trans) x 20 =	\$113.63
DB2 service unit rate	$.00580/1000 \times 2,013 \times 48$ (avg per trans) x 20 =	<u>\$50.95</u>

Total FY 05 and beyond State Data Center Charges - ISD	\$135.31
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The MHP assumes the proposed legislation would affect Total State Revenue. The cost per each fingerprint check is \$38 (\$14 for state check, \$24 for FBI check pass through).

For FY 04, the estimated revenue is calculated as follows: $9,150 \times \$38 = \$347,700$. Of this amount, \$219,600 ($9,150 \times \24) will be passed through to the FBI for the cost of the FBI fingerprint checks. \$128,100 ($9,150 \times \14) will remain in the Criminal Records System Fund.

For FY 05 and beyond, the estimated revenue is calculated as follows: $2,013 \times \$38 = \$76,494$. Of this amount, \$48,312 ($2,013 \times \24) will be passed through to the FBI for the cost of the FBI fingerprint checks. \$28,182 ($2,013 \times \14) will remain in the Criminal Records System Fund.

MHP estimates the net revenue of the proposed legislation to be \$127,485 in FY 04 and \$28,047 in FY 05 and beyond.

Oversight assumes the MHP would also incur costs due to the Section 43.530 provisions which would require the MHP to accept electronic payments for criminal repository checks. The following are the MHP's assumption to a similar proposal:

The MHP's Information Systems Division (ISD) has based its cost estimates on estimated figures provided by the Missouri Department of Revenue (DOR) for the

development of their MORE application system. It should be noted their

ASSUMPTION (continued)

application is considered much more complicated than the application envisioned for the Patrol. Their applications complexity required confirmation from five separate databases and the associated connectivity.

ISD's involvement would be to design, program, implement, test, and support the web site front end. This includes taking the submitted data necessary to forward to a third party and then receiving information back from the appropriate third party. For purposes of this fiscal note, the MHP has taken the DOR consulting costs, for scoping, training and "mentorship" and concluded the same time lines and costs would be applicable for the Patrol to get up to speed as was required for DOR.

The MHP further concluded, based upon interpretation of the intent, the amount of development and support required the Patrol's work effort would be less than the DOR work effort requirement. They utilized approximately 6,000 hours for development. MHP would utilize consultants with the necessary expertise to develop the necessary Web site requirements, with necessary knowledge transfer to state employees as a requirement, at the end of the development cycle.

ISD estimates the one-time costs to be \$496,000 (\$175,000 analysis phase + \$321,000 development by consultants (3,000 hours @ \$107 per hour)). The ISD estimates the recurring costs to be \$1,500 for support/maintenance (60 overtime hours @ \$25 per hour). MHP has calculated the fringe benefit costs for overtime work at 33.19%.

The MHP's Criminal Records and Identification Division (CRID) would be required to purchase a credit card mag stripe reader with print receipt capabilities for the public window customers to process walk-in requests. Yearly maintenance costs for the Omni 3200 cannot be purchased at this time but there would be a minimal amount of maintenance associated with the equipment. CRID estimates the one-time cost to be \$400 (2 Omni 3200's @ \$200 each).

The MHP estimates the cost of the proposal to be \$496,400 in FY 04; \$2,058 in FY 05; and \$2,120 in FY 06.

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ASSUMPTION (continued)

#The Missouri State Highway Patrol (MHP) has revised their response to similar legislation. Section 43.530 states the MHP shall receive payments electronically. The proposed language also authorizes the Patrol to establish procedures for electronic payment. At this time, the MHP would only establish procedures to collect fees from customers that request and pay for the background checks at the Criminal Records and Identification Division with a credit card (walk-in customers). If another state agency is paying for a background check, it can be done electronically through SAM II with interagency billing, which is already established. Therefore, the proposed legislation would not result in any impact to the General Revenue fund, and only minimal impact to the Criminal Records System Fund.

Officials from the **Department of Revenue (DOR)** assume the proposal will require programming changes to the school bus permit system to allow for the extra charges to be kept in the system and to allow the extra costs to be calculated. DOR would also have to modify the program to calculate the price for the individual applicant that does not have the bus company pay for their permit. DOR would also have to modify the accounting report to include the breakdown of the dollars that would need to be sent to the highway patrol. DOR estimates the total cost for school bus permit system programming to be \$2,760 in FY 04 (120 hours x \$23/hour overtime programming rate).

DOR assumes the proposal will also require programming changes to MTAS in order to collect the fees for the criminal history checks and to disburse the fees to highway patrol. DOR estimates the total cost for MTAS programming to be \$2,000 in FY 04 (80 hours x \$25/hour overtime programming rate).

DOR assumes the proposal will require testing of the program changes made to collect the criminal record search fee from the applicant. DOR estimates the total overtime testing costs to be \$1,600 in FY 04 (80 hours x \$20/hour overtime rate).

DOR assumes this proposal will create increased collections to the Criminal Record System Fund. This increase is due to increased costs charged by the Missouri State Highway Patrol (MHP) for fingerprint based record searches. Currently, the Department of Revenue requests records by name and date of birth via electronic data exchange. The patrol completes these record checks at no cost.

ASSUMPTION (continued)

The fingerprint based searches will require the DOR to collect the \$14.00 record search fee from each applicant and an additional \$24 for the federal background check. The DOR will transmit the total collection to the patrol via SAMII. The MHP will deposit the total collections in the Criminal Record System Fund and make monthly disbursement to the Department of Justice for the remaining collections.

The DOR will defer the revenue impact to the Criminal Record System Fund to the MHP for fiscal note purposes.

Oversight assumes Sections 483.015 and 483.083 of the proposal change the procedure used to select the City's Circuit Clerk. Oversight assumes that the City of St. Louis could expect to have some savings in election cost, however, Oversight would expect any savings to be minimal and is unknown. Oversight assumes no state fiscal impact. Oversight, in consultation with the Office of Secretary of State – Elections Division, learned that the next election for the Circuit Clerk's position would be in 2006. Oversight assumes that the Primary election would be held in August and the General election in November of 2006. This would be State fiscal year 2007 and would be beyond the scope of this fiscal note.

In response to a previous version of this proposal, officials from the **Boone County Treasurer's Office** assumed the proposal would result in a decrease in revenues and a loss of funds from fees taken away. Officials estimated the losses to be \$100,000 per fiscal year.

Oversight has reflected the statewide losses to counties as unknown.

The proposed legislation would affect Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
CRIMINAL RECORD SYSTEM FUND			
<u>Revenues</u> – Missouri State Highway Patrol			
Fingerprint fees	\$347,700	\$76,494	\$76,494
<u>Costs</u> – Missouri State Highway Patrol			
State Data Center charges	(\$615)	(\$135)	(\$144)
Pass through to FBI	(\$219,600)	(\$48,312)	(\$48,312)
For electronic payment capabilities#	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs</u> – MHP#	<u>(\$220,215)</u>	<u>(\$48,447)</u>	<u>(\$48,456)</u>
ESTIMATED NET EFFECT ON CRIMINAL RECORD SYSTEM FUND#	<u>\$127,485</u>	<u>\$28,047</u>	<u>\$28,038</u>

STATEWIDE COURT AUTOMATION FUND

<u>Revenues</u> – Office of State Courts Administrator			
Extension of sunset (§476.055)#	<u>\$0</u>	<u>\$3,708,333</u>	<u>\$741,666</u>
<u>Costs</u> – Office of State Courts Administrator			
Expenses associated with implementation of statewide court automation project (§476.055)*#	<u>\$0</u>	<u>(\$3,708,333)</u>	<u>(\$741,666)</u>
ESTIMATED NET EFFECT ON STATEWIDE COURT AUTOMATION FUND#	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

#* Expenses associated with the statewide court automation project would likely equal income; therefore, net effect is zero.

HIGHWAY FUND	FY 2004 (10 Mo.)	FY 2005	FY 2006
<u>Costs – Department of Revenue</u>			
Programming – Permit System	(\$2,760)	\$0	\$0
Programming – MTAS System	(\$2,000)	\$0	\$0
Testing	<u>(\$1,600)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>(\$6,360)</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
POLITICAL SUBDIVISIONS			
<u>Losses – Counties</u>			
Loss of fees	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</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 various provisions relating to court procedures. In its main provisions, the proposal would:

- (1) Amend the statute on time computation in civil cases to exactly match the corresponding Supreme Court rule;
- (2) Amend the process for filling vacancies of any unexpired term on the executive council of the judicial conference;

DESCRIPTION (continued)

- (3) Allow for legislative continuances in court during special and veto sessions and during interim committee assignments;
- (4) Eliminate, effective January 1, 2004, any requirement that petitioners for protection orders provide their Social Security numbers on petitions or case documents, although courts may require petitioners to provide the number on confidential case sheets;
- (5) Allow a party to a contested case with a state agency to apply to a court for enforcement of a subpoena. Current law allows only the agency to seek court enforcement. The proposal would also allow the agency or any party to intervene in an enforcement action;
- (6) Remove the requirement that a transcript judgment be filed with the circuit clerk before a judgment entered by an associate division of the circuit court becomes a lien on real property;
- (7) Require, beginning July 1, 2004, that the names on the master jury list be chosen from certain source lists. The names of potential jurors on the list would not be public record;
- (8) The proposed legislation would delete the requirement that the summons be sent to the defendant by certified mail. (§535.030)
- (9) Under current law, the Circuit Clerk for the City of St. Louis is elected. This bill requires that, after January 1, 2004, the Circuit Clerk for the City of St. Louis be appointed by a majority of the Circuit and Associate Circuit Judges of that circuit and be removable for cause by a majority of judges. The Circuit Clerk in office on January 1, 2004, will continue to hold that office as if appointed under these provisions. (§§483.015, 483.083)
- (10) Under current law, a person is disqualified from serving as a juror if that person is unable to read, speak, and understand the English language. The proposed legislation would establish an exception to that disqualification when the person's disability is due to a vision, speech, or hearing impairment which can be adequately compensated for through the use of auxiliary aids or services. (§494.425)
- (11) The act modifies the types of case dispositions that must be reported to the uniform law enforcement system records. (§577.051)

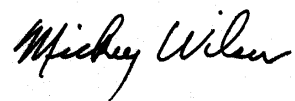
DESCRIPTION (continued)

(12) The proposal would require the State Highway Patrol to accept electronic payment for criminal record requests. The proposal would also allow the State Highway Patrol to establish a procedure to receive electronic payment for criminal record and fingerprint requests. The proposal would require submission of fingerprints for the purpose of obtaining criminal records prior to issuance of a school bus operator's permit. (§43.530)

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 Administration
 – Commissioner's Office
 – Administrative Hearing Commission
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 Conservation
Missouri House of Representatives
Missouri Senate
Office of Secretary of State
Office of State Treasurer
Boone County Treasurer's Office



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