

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3581-05  
Bill No.: Truly Agreed To and Finally Passed HCS for SCS for SB 1247  
Subject: Counties; Law Enforcement Officers and Agencies; Liability  
Type: Original  
Date: May 24, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
State Legal Expense	(Unknown)	(Unknown)	(Unknown)
Conservation	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

Officials from the **Office of Administration – Administrative Hearing Commission, – Division of Budget and Planning, Department of Health and Senior Services, Department of Revenue, Department of Social Services,** and the **University of Missouri** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Transportation,** did not respond to Oversight’s request for fiscal impact. However, in response to a previous version of the proposal, officials assumed the proposal 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.

ASSUMPTION (continued)

Officials from the **Office of the Attorney General (AGO)** assume the proposal would result in additional litigation defending covered lawyers against claims for malpractice. The AGO is also required to promulgate rules. A significant number of new claims against the Legal Expense Fund could require additional staff, but the AGO assume costs could be absorbed within existing resources.

Officials from the **Office of Administration – Risk Management (OA)** assume §105.711.2(5) provides liability coverage under the State Legal Expense Fund to attorneys providing services without compensation to non profit community social centers or through legal clinics operated by public or private schools of law or through any agency of any federal, state, or local government. The aggregate of payments shall be limited to \$500,000 for all claims arising out of the same act and \$500,000 for any one claimant.

The OA contacted the Bar Plan Mutual Insurance Company, which insures individual attorneys and law firms across the state, regarding the proposed changes to §105.711.2(5). Applying a \$500,000 per claim limit, with a standard \$1,000 deductible, \$1.5 million aggregate per year, the annual base rate for an individual attorney would be \$2,421 in premium cost. The Missouri Bar reports there are approximately 18,000 attorneys in Missouri with approximately 73% giving some free legal assistance. However, it is unclear that the “free legal assistance” is limited to the services as described in §105.711.2(5) and the 73% may be an overestimation for purposes of the fiscal note. While this coverage likely would have a fiscal impact on the state, costs cannot be determined and remain unknown.

Officials from the **Office of Secretary of State (SOS)** assume the proposal would give the Attorney General’s Office the authority to adopt rules to implement the provisions of this act. These rules would be published in the Missouri Register and the Code of State Regulations. These rules could require as many as 8 pages in the Code of State Regulations and half again as many pages in the Missouri Register, as cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the Missouri Register is \$23 and the estimated cost of a page in the Code of State Regulations is \$27. Based on these costs, the estimated cost of the proposal is \$492 in FY 05 and unknown in subsequent years. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn.

ASSUMPTION (continued)

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Department of Conservation (MDC)** assume, as the MDC contributes to the legal expense fund, this proposed legislation could have a negative impact on MDC funds.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
<b>STATE LEGAL EXPENSE FUND</b>			
<u>Costs – Office of Administration</u>			
Liability coverage	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON STATE LEGAL EXPENSE FUND</b>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>
<b>CONSERVATION FUND</b>			
<u>Costs – Department of Conservation</u>			
Liability coverage	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON CONSERVATION FUND</b>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<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 modify the legal expense fund to include any licensed attorney in this state that practices law for no compensation at or through a tax exempt nonprofit community social services center. The aggregate of any payments from the legal expense fund would be limited to a maximum of \$500,000 for all claims based upon the same act or acts alleged in a single cause and would not exceed \$500,000 for any one claimant. All payments from insurance policies purchased by the state relating to the legal expense fund would also be limited to \$500,000. For purposes of this proposal, all individuals and entities asserting a wrongful death claim would be considered one claimant.

Liability or malpractice insurance possessed by an attorney would not be considered available for payment of a claim to the extent that the legal expense fund would be required to make payment. However, an attorney could obtain liability or malpractice insurance for coverage of claims or judgments for amounts that exceed the maximum coverage of the legal expense fund.

The Attorney General would promulgate rules regarding contract procedure and the documentation of legal practice for attorneys covered by this act.

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 Administration

- Administrative Hearing Commission
- Division of Budget and Planning
- Risk Management

Office of State Courts Administrator  
Department of Transportation  
Department of Health and Senior Services  
Department of Revenue  
Department of Social Services  
Department of Conservation  
Office of the Secretary of State  
University of Missouri



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