

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4982-04
Bill No.: HCS #2 for SCS for SB 1221
Subject: Crimes and Punishment
Type: Original
Date: May 4, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(More than \$100,000)	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown
Total Estimated Net Effect on General Revenue Fund	(More than \$100,000)	(More than \$100,000) to Unknown	(More than \$100,000) to Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
DNA Profiling Analysis*	\$0	\$0	\$0
State School Moneys**	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Offsetting revenues and costs to DNA Profiling Analysis fund of approximately \$700,000 per fiscal year.

** Offsetting savings and losses to State School Moneys Fund in FY 2008 and FY 2009.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government***	Unknown	\$0	\$0

***** Offsetting revenues and costs to crime laboratories of approximately \$700,000 per fiscal year. Offsetting revenues and losses to school districts in FY 08 and FY 09.**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development, Department of Transportation, Department of Mental Health, Department of Natural Resources, Department of Health and Senior Services, Department of Revenue, Department of Social Services, Department of Public Safety – Director’s Office, – Missouri State Highway Patrol, Department of Insurance, Missouri Senate, Office of the Secretary of State, State Treasurer’s Office, Boone County Sheriff’s Department, and the Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator (CTS)** assume Section 577.070 of the proposed legislation would increase the penalty for littering by requiring community service and restitution. Restitution shall be ordered in the amount of \$600.00, one-half of which shall be deposited into the county law enforcement restitution fund under section 50.565, RSMo, in the county in which the crime occurred and one half of which shall be deposited into the county school fund under section 166.131, RSMo. If the county in which the crime occurred does not have a county law enforcement restitution fund, the entire restitution amount shall be deposited into the county school fund. In FY 05, there were 1,477 cases of littering disposed in the courts. The restitution ordered would produce a maximum income in a given year of \$886,200, to be divided. Since the rate of collection for misdemeanor offenses is approximately 80%, a more likely income would be \$708,960, or \$354,480 for each recipient entity.

CTS assumes Section 488.5050 of the proposed legislation would extend the August 28, 2006 expiration date for the \$30 and \$15 surcharges on certain criminal cases. In the first eleven months of 2005, \$643,614 was deposited into the DNA Profiling Analysis Fund. With the deletion of the expiration date, CTS would anticipate that approximately this amount would be deposited into the fund in any given year.

Oversight assumes funds deposited into the DNA Profiling Analysis Fund would be distributed by the Department of Public Safety to crime laboratories for the implementation of the DNA Profiling System.

Oversight assumes the proposed legislation in Section 488.5050 extends an existing provision by removing or changing the expiration date. Oversight assumes removing or changing the expiration date will extend any fiscal impact associated with the existing provision. Therefore, Oversight has reflected the fiscal impact in the fiscal note.

CTS also assumes Section 50.565 of the proposed legislation would allow the court to order a person to pay into the county law enforcement restitution fund for a moving violation. Traffic cases are technically misdemeanors, and if as an alternative to a traffic conviction, a defendant can get a suspended sentence for payment into the crime reduction fund, the potential volume could be in the thousands of cases. If cases that would otherwise have resulted in a conviction are shifted to a suspended imposition or execution of sentence, it is likely to result in the loss of revenue from fines to the schools, crime victims' compensation, law enforcement training, and other earmarked funds. Currently, the total cost for a traffic ticket stands at \$54.50. This proposal would increase significantly the cost of those tickets where the fee was assessed.

ASSUMPTION (continued)

CTS assumes there are a number of new crimes created, and some changes in criminal procedures. CTS would not anticipate a fiscal impact in excess of \$100,000 for these changes.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **City of St. Louis** assume Section 92.500 of the proposal would allow submission to city voters of up to a maximum $\frac{1}{2}$ cent sales tax proposition for public safety purposes. A sales tax at the maximum $\frac{1}{2}$ cent rate would generate approximately \$17 million per year.

Oversight assumes the language in Section 92.500 of the proposal is permissive. If the City of St. Louis officials submit a tax proposal to the voters, revenues would be dependent on voter approval. Therefore, Oversight has reflected no fiscal impact.

Officials from the **Department of Corrections (DOC)** assume passage of this proposal would create and enhance the penalties on various crimes.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY05 average of \$39.13 per inmate, per day or an annual cost of \$14,282 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the number of crimes created and enhanced, it is assumed the impact would be more than \$100,000 per year for the DOC.

In response to a previous version of the proposal (Perfecting SCS for SB 1221, LR # 4982-02), Officials from the **Office of Prosecution Services** assumed the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the Office of the Attorney General, Office of the Governor, Office of Administration, Department of Labor and Industrial Relations, Department of Conservation, Missouri House of Representatives, Office of the State Public Defender, Columbia Police Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, Kansas City Police Department, St. Louis County Police Department, St. Louis Metropolitan Police Department, Boone County, Butler County, Greene County, Jackson County, St. Louis County, Columbia Public Schools, Kansas City Public Schools, Mexico Public Schools, Parkway Public Schools and St. Louis Public Schools did not respond to Oversight's request for fiscal impact.

This proposal would increase Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE FUND			
<u>Savings</u> – Reduced appropriations to State School Moneys Fund	\$0	Unknown	Unknown
<u>Costs</u> – Office of State Courts Administrator			
Increased workload on courts	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$100,000)</u>	<u>(More than \$100,000) to Unknown</u>	<u>(More than \$100,000) to Unknown</u>
DNA PROFILING ANALYSIS FUND			
<u>Revenues</u> – State Treasurer’s Office			
Court fees	\$576,922	\$702,124	\$702,124
<u>Costs</u> – Department of Public Safety			
Distributions to crime laboratories	<u>(\$576,922)</u>	<u>(\$702,124)</u>	<u>(\$702,124)</u>
ESTIMATED NET EFFECT ON DNA PROFILING ANALYSIS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2007 (10 Mo.)	FY 2008	FY 2009
STATE SCHOOL MONEYS FUND			
<u>Savings</u> – Reduced distributions to local school districts	\$0	Unknown	Unknown
<u>Losses</u> – Reduced appropriations from General Revenue Fund	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – School Districts			
Income from fines	Unknown	Unknown	Unknown
<u>Revenues</u> – Crime Laboratories			
Distributions from DNA Profiling Analysis Fund	\$576,922	\$702,124	\$702,124
<u>Losses</u> – School Districts			
Reduced distributions from State School Moneys Fund	\$0	(Unknown)	(Unknown)
<u>Costs</u> – Crime Laboratories			
Implementation of DNA Profiling System	<u>(\$576,922)</u>	<u>(\$702,124)</u>	<u>(\$702,124)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>Unknown</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

This substitute changes the laws regarding crime prevention. In its main provisions, the substitute:

- (1) Adds any moving violation, as defined by Section 302.010, RSMo, to the list of infractions for which a court may order payment to the county law enforcement restitution fund (50.565);
- (2) Gives the prosecuting or circuit attorney the power to dismiss a complaint, information, or indictment without the consent of the court (56.087);
- (3) Authorizes the City of St. Louis to impose, upon voter approval, a sales tax of up to 0.5% for the operation of public safety departments as well as for the compensation, pension programs, and health care for public safety employees and pensioners (92.500);
- (4) Creates the crime of distribution of a controlled substance near a park when a person unlawfully distributes or delivers a controlled substance to another individual within 1,000 feet of a public, private, state, county, or municipal park, a class A felony (195.217);
- (5) Creates the crime of falsifying or attempting to falsify a drug or alcohol test when a person knowingly and intentionally commits a fraudulent act to falsify or defraud a drug or alcohol test. Evidence of a fraudulent act will be possession of false tubing, bladders, containers, and other devices concealed on the body to provide a false biological sample; submitting a false or adulterated biological sample to be tested; submitting a biological sample that was collected from another person or animal; adulterating a biological sample; or submitting a false document or false material statement with the intent to hinder or defraud a drug or alcohol test. Violation of this offense will be a class C felony. It will be a class A misdemeanor to manufacture, possess, sell, give away, distribute, market, or transport a biological sample in this state with the intent of using the biological sample to hinder or defraud a drug or alcohol test or substances intended to be used to adulterate a biological sample for the purpose of hindering or defrauding a drug or alcohol test (195.480);
- (6) Requires a photograph to be taken of an incarcerated individual upon release and made available to the victim at the victim's request (217.439);

DESCRIPTION (continued)

(7) Allows any offender to refuse parole that is conditioned on the performance of free work. Any county, city, person, organization, agency, or its employee who is charged with the supervision of free work or who benefits from its performance will be immune from any cause of action arising from his or her supervision of performance, except for an intentional tort or gross negligence (217.690);

(8) Permits any sheriff or jailer to refuse to accept or incarcerate any prisoner that is deemed to be medically unfit for confinement (221.040);

(9) Changes the process for registering securities in Missouri by requiring a statement of cash flows instead of a statement declaring changes in financial position. The bill also removes the discretion of the Commissioner of Securities to institute a revocation or suspension proceeding based on an order issued under a law of another state that is reported more than one year after the date of the order. Orders from the commissioner may include a civil penalty or the costs of the investigation when sought in the statement accompanying the order. The standard for imposing a \$50,000 civil penalty changes from several violations to more than one violation of a commissioner's order (Chapter 409);

(10) Allows a party to file a written motion for disqualification of a judge within 10 days after discovering the ground for disqualification (476.185);

(11) Allows a judge to order the defendant in a municipal or circuit criminal case to pay costs as determined in Section 488.012 (479.260);

(12) Removes the exemption for cases disposed of by a traffic violations bureau. Sheriffs, county marshals, and other officers are currently authorized to charge a fee for their services in certain cases ((488.5320);

(13) Specifies that a prosecution is commenced for a misdemeanor or infraction when the information is filed. A prosecution for a felony is commenced when the complaint is filed (556.036);

(14) Expands the crime of unlawful transactions with a child to include a wholesaler or retailer or employee of a wholesaler or retailer who knowingly sells, rents, or otherwise makes available a video game which is rated mature, adults only, or which contains intense or graphic violence, graphic depictions of sexual behavior (568.070);

DESCRIPTION (continued)

(15) Changes the term “stealing-related offense” to include robbery and clarifies that a person who has pled or been found guilty of two separate stealing offenses, which were committed on two separate occasions, will be guilty of a class B felony (570.040);

(16) Increases the penalty for the crime of possession of child pornography from a class C felony to a class B felony (573.037);

(17) Creates the crime of disarming a peace or correctional officer if a person intentionally removes from the peace or correctional officer or deprives the peace or correctional officer the use of his or her firearm or other deadly weapon while the officer is acting within the scope of his or her official duties. The crime, a class C felony, does not include situations in which the person does not know or could not reasonably have known that the person was a peace or correctional officer or if the officer was engaged in felonious conduct at the time of the disarmament (575.153);

(18) Creates the “Alan Woods Law” and specifies that any state, county, or municipal law enforcement officer who has the power to arrest an individual for driving with excessive blood-alcohol content or driving while intoxicated, and is certified under Missouri law, will administer a chemical test to any person suspected of driving a motor vehicle involved in a collision which resulted in a fatality or serious physical injury (577.020);

(19) Increases the penalties for littering by requiring at least 40 hours of community service and a \$600 restitution payment. One half of the restitution payment will be deposited into the county law enforcement restitution fund, and the remaining half will be deposited into the county school fund. If the county in which the crime occurred does not have a county law enforcement restitution fund, the entire amount will be deposited into the county school fund (577.070);

(20) Revises the definition of “intoxication-related traffic offense” to include any offense committed in another state or any federal or military offense which, if committed in Missouri, would be considered an intoxication-related traffic offense. The substitute also specifies that a person may be considered an aggravated or chronic offender if he or she has committed any offense in another state or any federal or military offense which, if committed in Missouri, would be considered an intoxication-related traffic offense(577.023);

(21) Prohibits the use or possession of an alcohol beverage vaporizer. Any substance that has been approved by the federal Food and Drug Administration as an over-the-counter or therapeutic drug product administered by an authorized medical practitioner is exempt (578.255);

DESCRIPTION (continued)

(22) Changes the laws regarding damages to an animal facility for which criminal penalties are imposed. The penalties will be:

- (a) A misdemeanor for animal facility damage exceeding \$200;
- (b) A class D felony for animal facility damage exceeding \$200, but not exceeding \$5,000;
- (c) A class C felony for animal facility damage exceeding \$5,000, but not exceeding \$75,000; and
- (d) A class B felony for animal facility damage exceeding \$75,000 (578.409);

(23) Requires the POST Commission to make training available to peace officers that provides instruction on the investigation of crimes involving the use of computer, the Internet, or both (590.035);

(24) Requires crime victims to be paid up to \$250 from the Crime Victims' Compensation Fund to replace clothing, bedding, or other personal items seized by law enforcement as evidence of a crime (595.030);

(25) Allows victims to be represented by an appointed person instead of a personal appearance during parole and probation revocation hearings for the defendant. The victim's appointee who honors any subpoena to testify in or attend a criminal proceeding is protected from discharge by any employer or from using vacation, personal, or sick leave to attend any criminal proceeding (595.209);

(26) Authorizes access to official court records to victims of offenses against the family found in Chapters 566 and 568 to use in his or her own judicial proceedings. Currently, access to official court records for persons arrested and charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended is limited to law enforcement agencies, child care agencies, residential care facilities, and skilled nursing facilities (610.105);

(27) Allows a judge to order, as a condition of probation, the probationer to be vaccinated for Hepatitis A and B at his or her local health department with the costs to be paid by the probationer (Section 1);

(28) Creates the crime of knowingly entering unlawfully or knowingly remaining unlawfully on any real property designated as a licensed hunting preserve by the Department of Conservation, a class A misdemeanor (Section 3);

DESCRIPTION (continued)

The proposed legislation removes the August 28, 2006, expiration date for the \$30 surcharge on criminal cases in which the defendant pleads guilty to or is convicted of a felony and the \$15 surcharge for cases in which the defendant pleads guilty to or is convicted of a misdemeanor. This money is deposited into the DNA Profiling Analysis Fund and used only for the DNA profiling analysis of convicted offender samples (488.5050).

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 Economic Development
Department of Elementary and Secondary Education
Department of Transportation
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Revenue
Department of Social Services
Department of Insurance
Department of Public Safety
 – Missouri State Highway Patrol
 – Director's Office
Office of Prosecution Services
Missouri Senate
Office of the Secretary of State
State Treasurer's Office
City of St. Louis
Boone County Sheriff's Department
Springfield Police Department

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NOT RESPONDING

Office of the Attorney General, Office of the Governor, Office of Administration, Department of Labor and Industrial Relations, Department of Conservation, Missouri House of Representatives, Office of the State Public Defender, Columbia Police Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, Kansas City Police Department, St. Louis County Police Department, St. Louis Metropolitan Police Department, Boone County, Butler County, Greene County, Jackson County, St. Louis County, Columbia Public Schools, Kansas City Public Schools, Mexico Public Schools, Parkway Public Schools and St. Louis Public Schools



Mickey Wilson, CPA
Director
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