

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4054-02
Bill No.: HCS for SB 636
Subject: Estates, Wills and Trust; Marriage and Divorce
Type: Original
Date: April 30, 2012

Bill Summary: This proposal modifies the requirements for a spousal trust to include both property held in one trust for both spouses and property held in two separate shares.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(\$71,524) to Unknown	(\$89,163) to Unknown	(\$92,580) to Unknown
Total Estimated Net Effect on General Revenue Fund	(\$71,524) to Unknown	(\$89,163) to Unknown	(\$92,580) to Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
PACARS Fund	\$496,732	\$496,732	\$496,732
MODEX Fund	\$432,411	\$432,414	\$432,414
Total Estimated Net Effect on <u>Other</u> State Funds	\$929,143	\$929,146	\$929,146

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 20 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$1,160,931	\$1,160,931	\$1,160,931

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Administrative Hearing Commission, Office of the Governor, Office of the State Auditor, Department of Transportation, Department of Insurance, Financial Institutions and Professional Registration, Missouri Senate, City of Columbia, Jefferson City Police Department, Department of Revenue, Department of Labor and Industrial Relations, Department of Mental Health, Department of Social Services, Office of Prosecution Services and Missouri Department of Conservation** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Attorney General's Office** assume any potential cost arising from this proposal can be absorbed with existing resources.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Missouri House of Representatives and Office of the State Treasurer** did not respond to our request for fiscal impact.

Officials from the **Boone County Sheriff's Department, Buchanan County Sheriff's Department, Clark County Sheriff's Department, Columbia Police Department, Independence Police Department, Jackson County Sheriff Department, Kansas City Police Department, Platte County Sheriffs Department, Springfield Police Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Police Department, St. Louis County Sheriff Department and the St. Louis Metropolitan Police Department** did not respond to Oversight's request for fiscal impact.

ASSUMPTION (continued)

Officials at the following counties: **Andrew, Barry, Bates, Boone, Buchanan, Butler, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Hickory, Holt, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Pemiscot, Perry, Phelps, Platte, Pulaski, Scott, St. Charles, St. Louis, St. Francois, Taney, Texas, Warren, and Webster** did not respond to Oversight's request for fiscal impact.

Officials at the following cities: **Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kansas City, Kearney, Kennett, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Linn, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains** did not respond to Oversight's request for fiscal impact.

Section 488.026

Officials from the **Office of the State Courts Administrator** state this section would allow Attorneys' Retirement System Fund to be assessed and against persons who pled and paid a fine through a fine collection center. Based on data for FY11, we assume that there are approximately 124,183 fine collection center cases on which this \$4.00 surcharge could be applied. We anticipate the revenue from a \$4.00 surcharge would be approximately \$496,732 in any given year.

Officials from the **Prosecuting Attorneys and Circuit Attorney's Retirement System (PACARS)** state they do not believe this legislation will be interpreted to allow reduction in the mandatory contribution required by Section 56.800, but if it is so interpreted the counties will undoubtedly use this legislation to justify reductions in payments to PACARS which would adversely affect our financial position in the eyes of our actuaries.

Officials from the **Joint Committee on Public Retirement** state based on the information provided by the Office of the State Courts Administrator provisions included in this legislation would increase the surcharge contribution to PACARS.

ASSUMPTION (continued)

The estimated revenue as provided by the Office of the State Courts Administrator of the inclusion of the \$4 fee paid to the fine collection center would be \$496,732 in any given year.

Section 488.2250

Officials from the **Office of the State Courts Administrator** state this section would increase statutory fees paid to court reporters for preparation of transcripts. Court reporters are statutory state employees who are paid fees in addition to their statutory salary. While most transcript costs are paid by private litigants, there are some costs borne by the judiciary, State Public Defender and state agencies who are parties to appeals. Based on the increase for original transcripts and copies, the additional cost to the judiciary would be at least \$30,000.

Officials from the **Office of the State Public Defender** state we are currently responsible for paying Court Reporter Invoices for Indigent Criminal Appeals for PCR Transcripts. As per the amendment the court reporters will receive the increase from \$2.00 per page to \$2.60 per page. We pay for 3 copies at \$.20 each on every page prepared. Each page now cost us \$2.60. With the increase each page will cost us \$3.20 or a 23% increase. Our current budget for court reporter payments is \$579,825. A 23% increase would result in a need for an additional \$133,360 in General Revenue Funds.

Section 488.426

Officials from the **Office of the State Courts Administrator** state this section would allow Clay, Boone, Callaway, St. Louis County, St. Louis City and Greene to charge up to a \$20 law library surcharge, the limit is now \$15.00. There were 145,704 civil cases filed in these counties in FY11. If an additional \$5.00 was assessed on every case, and collections were 100%, the income would be approximately \$728,520 in a given year.

Below are the number of filings and potential income by county/circuit:

Clay- 16,836 civil filings x \$5.00 = \$84,180

Boone and Callaway- 10,738 civil filings x \$5.00 = \$53,690

St. Louis County- 66,370 civil filings x \$5.00 = \$331,850

ASSUMPTION (continued)

St. Louis City-	32,509 civil filings x \$5.00 = \$162,545
Greene-	19,251 civil filings x \$5.00 = \$ 96,255

Section 488.5320

Officials from the **Office of the State Courts Administrator** state this section would establish the MODEX fund and deposit one-half of the charges collected by central violations bureaus into the MODEX fund to support operational costs. It is assumed most counties will establish an inmate security fund and that the traffic violations bureau is the Fine Collection Center. Based on FY 2011 data, there were approximately 144,138 traffic cases on which one-half of the \$6.00 surcharge could be applied. We anticipate the MODEX revenue from the surcharge would be approximately \$432,414 in any given year.

Section 195.222 and 195.223

Officials from the **Department of Corrections (DOC)** state this proposal changes the weights necessary for enhanced punishment of cocaine-based drugs. Crimes for drug trafficking in this proposal are punishable by up to class A felonies. Raising the minimum amount of drugs by eighteen (18) times the amount currently necessary in order to be charged with the existing crimes will reduce the amount of offenders sentenced to DOC. The potential amount of offenders cannot be estimated. A decrease in the commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

Several new/enhanced crimes are in this proposal. 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 direct offender cost either through incarceration (FY11 average of \$16.878 per offender, per day, or an annual cost of \$6,160 per inmate) or through supervision provided by the Board of Probation and Parole (FY11 average of \$5.03 per offender, per day or an annual cost of \$1,836 per offender).

In summary, DOC assumes the unknown positive due to the decrease in the cocaine crimes would outweigh the impact of any new or enhanced crimes in this proposal.

ASSUMPTION (continued)

The resulting fiscal impact would be decreased costs to the department, but the exact positive fiscal impact is unknown per each fiscal year.

This cost analysis assumes that all Public Defender transcripts fall within the definition of “unable to pay the cost of the transcript”.

Section 488.5375

Officials from the **Department of Public Safety - Division of Drug and Crime Control (DDCC)** states that during the preceding 27 months, the Computer Forensic Unit has examined computers or other devices associated with 29 sexual offender cases. Investigators spent 2,030 hours conducting these 29 examinations which comes to an average of 70 hours per case (2,030/29). This unit is currently staffed by two Sergeants and a Trooper and an average hourly salary was figured at \$28 per hour which equates to \$1,960 per case (70 x \$28). When the FY12 fringe benefit rate of 88.19% was included, the total amount per case was \$3,688 (\$1,960 + 88.19%). If the average number of cases per year (29/27 x 12) is multiple by the total fiscal impact amount per case, the fiscal impact per year is \$47,531. DDCC believes these numbers to be on the low end as an investigator was added to the unit as a result of the merger with the Water Patrol.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Revenue - Department of Corrections</u> DDCC \$28 fee (Section 488.5375)	\$39,609	\$47,531	\$47,531
<u>Savings - Department of Corrections</u> Decrease in cocaine crimes (Sections 195.222 and 195.223)	Unknown	Unknown	Unknown
<u>Cost- Office of the State Public Defender</u> Increase of Transcript fee (Section 488.2250)	<u>(\$111,133)</u>	<u>(\$136,694)</u>	<u>(\$140,111)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$71,524) to Unknown</u>	<u>(\$89,163) to Unknown</u>	<u>(92,580) to Unknown</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2013 (10 Mo.)	FY 2014	FY 2015
PACARS FUND			
<u>Revenue - PACARS</u> \$4.00 surcharge (Section 488.026)	<u>\$496,732</u>	<u>\$496,732</u>	<u>\$496,732</u>
ESTIMATED NET EFFECT TO THE PACARS FUND	<u>\$496,732</u>	<u>\$496,732</u>	<u>\$496,732</u>
MODEX FUND			
<u>Revenue - \$6.00 surcharged collected</u> from traffic violations (Section 488.5320)	<u>\$432,411</u>	<u>\$432,414</u>	<u>\$432,414</u>
ESTIMATED NET EFFECT TO THE MODEX FUND	<u>\$432,411</u>	<u>\$432,414</u>	<u>\$432,414</u>
FISCAL IMPACT - Local Government			
	FY 2013 (10 Mo.)	FY 2014	FY 2015
INMATE SECURITY FUND			
<u>Revenue - \$6.00 surcharged collected</u> from traffic violations	<u>\$432,411</u>	<u>\$432,414</u>	<u>\$432,414</u>
ESTIMATED NET EFFECT TO THE INMATE SECURITY FUND	<u>\$432,411</u>	<u>\$432,414</u>	<u>\$432,414</u>
LOCAL POLITICAL SUBDIVISIONS			
<u>Income- Counties of Clay, Boone,</u> Callaway, Greene St. Louis and the City of St. Louis \$20 law library surcharge (Section 488.5320)	<u>\$728,520</u>	<u>\$728,520</u>	<u>\$728,520</u>
ESTIMATED NET EFFECT ON THE LOCAL POLITICAL SUBDIVISIONS	<u>\$728,520</u>	<u>\$728,520</u>	<u>\$728,520</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal modifies laws relating to the judiciary.

JOINT COMMITTEE ON CHILD ABUSE AND NEGLECT

This proposal establishes the Joint Committee on Child Abuse and Neglect which shall be composed of seven members of the House of Representatives appointed by the Speaker and Minority Floor Leader and seven members of the Senate appointed by the President Pro Tem and the Minority Floor Leader. No party may be represented by more than four members of the Senate and four members of the House of Representatives. The Committee will expire on January 15, 2018.

Among other duties, the Joint Committee is required to:

- (1) Study and analyze the state child abuse and neglect reporting and investigation system;
- (2) Devise a plan for improving the decision process for removal of a child from a home;
- (3) Determine the additional personnel and resources necessary to adequately protect children and improve their welfare; and
- (4) Address the need for additional foster care homes and to improve the quality of care provided to abused and neglected children in the custody of the state.

DRIVER'S REGISTRATION AND MOTOR VEHICLE RECORDS

Currently, the Department of Revenue is prohibited from releasing the home address or any other information contained in the Department's motor vehicle or driver registration records for specified groups of individuals. This act adds any state or federal judge or his or her immediate family members to those groups. The act also limits the information withheld to the home address and information that identifies a vehicle owned by an individual in the specified groups.

FISCAL DESCRIPTION (continued)

CRIMINAL CASE SURCHARGE

Currently, a \$4 surcharge is assessed in all criminal cases for deposit into the Missouri Prosecuting Attorneys' and Circuit Attorneys' Retirement System Fund except under certain circumstances. This act removes the exception for a person who has pled guilty and paid his or her fine.

COLLECTION OF FINES OR COSTS

The act authorizes local governmental agencies to utilize collection agencies to collect unpaid and past due court fines, administrative fines, or costs associated with a criminal conviction or entry of a civil judgment.

GREENE COUNTY ASSOCIATE CIRCUIT COURT JUDGES

Currently, associate circuit judges in Cass County can hear and determine county traffic ordinance violations. This act extends similar authority to associate circuit judges in Greene County and allows such judges in both counties to hear any county ordinance violation adopted pursuant to statute.

TRAFFICKING DRUGS

Currently, a person commits the crime of trafficking drugs in the first degree if he or she distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture, or produce more than 2 grams of crack. If the quantity involved is between 2 and 6 grams, the person must be sentenced to the authorized term of imprisonment for a Class A felony. If the quantity is 6 grams or more, the person will be ineligible for probation or parole. This act raises the quantity for a Class A felony sentence to between 28 and 280 grams. If the person has 280 grams or more, the person will be intelligible for probation or parole.

Currently, a person commits the crime of trafficking drugs in the second degree if he or she possesses or has under his or her control, purchases, or attempts to purchase or brings into this state more than 2 grams of crack. If the quantity involved is between 2 and 6 grams, the person will be guilty of a class B felony. If the quantity is 6 grams or more, the person will be guilty of a Class A felony. This act raises the quantity for a Class B felony sentence to between 28 and 280 grams. If the person has 280 grams or more, the person will be guilty of a Class A felony.

FISCAL DESCRIPTION (continued)

FOSTER CARE LICENSURE INFORMATION

This proposal authorizes public governmental bodies to close meetings, records, and votes to the extent they relate to personal information obtained in the process of licensing a foster home. The Division of Family Services must make a report available for each foster home that is licensed containing the following:

- (1) The names of all persons 18 years of age or older licensed to operate the foster home and the amount of state funds paid to the operator for foster care services;
- (2) A description of the background investigation conducted on all persons operating or maintaining the foster home including a description of submitted documents and training of the operators;
- (3) A description of all concerns raised during the background investigation and foster home licensure process and how those concerns were resolved;
- (4) A description of a person's ability to perform the minimum competency requirements of a foster parent;
- (5) A list of all references provided by each person, stating the reference's name, how and when the reference was contacted, and a brief description of the reference's opinion of the person;
- (6) The number of the operator's previous care assignments; and
- (7) Any history of previous complaints involving the foster care operator or the foster child.

The report is not to contain the address of any residence or any personal information not otherwise required. It must not contain any information that is otherwise closed, confidential, or privileged. Information obtained in the process of licensing a foster home will be considered public record in the event of serious injury, death, or criminal incident involving a foster child.

JUVENILE COURT JURISDICTION

Current law provides that the juvenile court shall have jurisdiction over any child up to 15 and 1/2 years of age who is involved in a state or local traffic violation. This act lowers such age so that the juvenile court would have jurisdiction over any child up to 15 years of age in such instances.

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FISCAL DESCRIPTION (continued)

TERMINATION OF PARENTAL RIGHTS

This act prohibits a person who commits an act of rape from obtaining custody or visitation rights to the child who is the product of the rape.

CONSENT OR WAIVER OF CONSENT FOR TERMINATION OF PARENTAL RIGHTS

This proposal authorizes the Children's Division within the Department of Social Services to terminate the rights of a parent or approve the consent to adoption or waiver of consent to adoption by a parent, including a child who is a ward of the court, if a court finds that the termination or consent to adoption or waiver of consent to adoption is in the best interests of the child and the parent has consented in writing to the termination of his or her parental rights or consented or waived consent to the adoption.

PERFECTION OF SECURITY INTERESTS

Currently, security interests in property subject to certain federal or state filing requirements can only be perfected by following such requirements. There is an exception for property held as inventory by a person in the business of selling or leasing goods of that kind. This act removes persons in the business of leasing goods of that kind from the exception.

ADOPTION PROCEEDINGS

This proposal allows the written consent required for adoption or a waiver of necessity of consent for future adoptions to be executed in front of a judge instead of a notary public. If executed in front of a judge, the judge must advise the consenting or waiving birth parent of the consequences of the consent or waiver.

Currently a written consent must be reviewed by a judge within 3 business days. The judge may approve the consent or schedule a hearing. Consent may be withdrawn anytime before approval by the judge. This act makes the written consent final upon execution unless the consenting party proves before the final adoption decree and by clear and convincing evidence that consent was not given freely. A consent to an adoption must have been executed not more than six months prior to the date the petition for adoption is filed.

The proposal requires a court conducting a final adoption hearing to determine whether the court has received and reviewed an investigation report under Section 453.070 or an investigation and social study under Section 211.455, if either are available. By January 1, 2013, the Missouri

FISCAL DESCRIPTION (continued)

Supreme Court must develop a standardized form to be used in all adoption cases which includes a checklist to verify that all the documents and procedures required by law have been submitted, followed, and reviewed by the judge prior to the entry of a final order. The form and attachments must be included as part of the adoption record.

POST ADOPTION CONTRACT AGREEMENT

Prospective adoptive parents and the parents of a prospective adoptee may enter into a written post adoption contract agreement to allow contact after the adoption between parents, siblings, or other relatives of the adoptee and the adoptee and the adoptive parents. Any agreement is at the discretion of the adoptive parents, must be in writing and signed by the parties to the agreement, and must be made part of the court record. The court shall enforce an agreement unless to do so is not in the best interest of the adoptee.

QUALIFIED SPOUSAL TRUSTS

Currently, trusts that hold a certain kind of property owned by a husband and a wife will be considered a qualified spousal trust if the property is held in one trust or the property is held in two separate shares of one trust. This act allows a trust to be considered a qualified spousal trust if the trust consists of both property held in one trust for both spouses and property held in two shares of one trust for each spouse.

TRUST PROTECTORS

This proposal modifies the law regarding trusts to specifically allow for the appointment of a trust protector. The trust protector is a person who is given power over the trust by the document that creates the trust.

The trust protector's powers may include: the power to remove and appoint a trustee, or name a successor trust protector, the power to modify or amend the documents that created the trust, the power to modify the interests of a beneficiary of the trust, the power to terminate the trust in favor of the beneficiary, the power to change which law applies to the trust and which state the trust is located in, and any powers that are expressly included in the trust documents.

The trust protector is not a trustee but shall act in a fiduciary capacity in carrying out the duties and powers granted by the trust instrument to the trust protector. The trust protector will not be liable for his or her acts or omissions unless they are done in breach of the trust protector's duty, in bad faith, or with reckless indifference. Unless it is established that the trust protector acted in

FISCAL DESCRIPTION (continued)

bad faith or with reckless indifference, the trust protector will be reimbursed from the assets of the trust for the costs and expenses of defending a lawsuit against him or her. A trust protector is entitled to reasonable compensation from the trust assets for carrying out the powers given to them by the trust document.

The act also provides that the trust protector is entitled to certain information about the trust, provides authority for a trust protector to resign by providing written notice to the trustee, and specifies that the courts have jurisdiction over a trust protector while the administration of the trust is in Missouri.

COURT AUTOMATION FUND

Currently, a court fee is collected and deposited into the Statewide Court Automation Fund. The Court Automation Committee may use moneys in the fund for court automation. Collection of the fee is set to expire on September 1, 2013. The Committee is to cease functions no later than September 1, 2015. Unexpended moneys remaining in the fund will be transferred to the general revenue fund on September 1, 2013.

This proposal extends collection of the court fee until September 1, 2018. The Committee's will continue to operate until September 2, 2020.

ADMINISTRATIVE ADJUDICATION SYSTEM

Springfield will be allowed to establish an administrative adjudication system.

MUNICIPAL ORDINANCE VIOLATIONS

Currently, municipalities that make an election to have violations of their ordinance heard by an associate circuit court or county municipal court must have all violations of their ordinances heard by such a court. This act allows municipalities to elect to have only violations by an accused with special needs due to mental illness or mental disorder heard by such courts. If the election is for an associate circuit court to handle such matters, the presiding judge of the circuit must consent to the election. If the election is for a county municipal court to handle such matters, a county contract must permit the election.

FISCAL DESCRIPTION (continued)

The prosecutor must make a designation of special needs on the information. The matter will be transferred back to the municipal court if the associate circuit court or county municipal court does not have established resources for handling such matters or the court determines the accused does not have special needs.

ST. LOUIS CITY CIRCUIT CLERK

This proposal requires that the circuit clerk for the twenty-second judicial circuit be appointed by a majority of the judges of that circuit. The circuit clerk shall be removable for cause by a majority of the circuit judges. The elected circuit clerk holding office when this act takes effect will remain in office for the remainder of his or her term.

SURCHARGE IN CIVIL COURT CASES

Currently, circuit courts can require a party filing a civil case to pay a surcharge up to \$15. Jackson county is authorized to charge up to \$20. This act authorizes circuit courts that reimburse the state for salaries of their family court commissioners to also charge up to \$20.

FEES FOR TRANSCRIPTS

Currently, a fee of \$2 is charged per 25 line page for a transcript of testimony or proceedings in a circuit court. A fee of \$0.35 per page is charged for each additional copy. This act raises the fee to \$3.50 per page for the original and up to 3 copies. The fee is raised to \$0.50 per page for each additional copy. The act states that these fees will only apply in cases where an appeal is taken. All copies of transcripts must be provided by a certified court reporter.

This proposal allows the court reporter to furnish electronic copies of the transcript when ordered to provide transcripts by the court in criminal cases where the defendant is unable to pay the costs. In such cases the state will reimburse the court reporter for the costs. The act raises the amount being reimbursed from \$2 to \$2.60.

CHARGES FOR LAW ENFORCEMENT SERVICES

Currently, sheriffs, county marshals and other officers are not allowed to charge for their services rendered in cases disposed of by a traffic violations bureau. This act allows these official to charge six dollars for their services. One-half of the amount collected will be deposited in the MODEX fund. The other half will be deposited in the inmate security fund of the county or municipality where the citation originated.

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FISCAL DESCRIPTION (continued)

If the county or municipality does not have an inmate security fund, all of the amount collected shall be deposited in the MODEX fund.

This proposal creates the MODEX fund. The fund will be used for the support and expansion of the Missouri Data Exchange (MODEX) system. The Peace Officers Standards and Training Commission will administer the fund.

COST FOR EXAMINING ELECTRONICS IN SEXUAL OFFENSE CASES

This proposal allows courts to order a defendant, upon a plea of guilty or a finding of guilt for a felony sexual offense, to reimburse the state or local law enforcement agency for the reasonable costs incurred in the examination of certain seized electronic devices. The costs will be established by each law enforcement agency, but the court may reduce the costs if it determines them to be excessive.

INVERSE CONDEMNATION AND DANGEROUS CONDITIONS ON PUBLIC PROPERTY

This proposal requires that suits against municipal corporations involving dangerous conditions of public property or suits in inverse condemnation be brought in the county in which all or part of the property lies.

PROPERTY EXEMPT FROM ATTACHMENT & EXECUTION

Currently any motor vehicle less than \$3,000 in value is exempt from execution or attachment. This act requires that all motor vehicles owned by a debtor be considered together and only their aggregate value less than \$3,000 shall be exempt. Mobile homes used as principal residences cannot be attached to real property to be exempt. The age for dependents included in the head of household exemption calculation is raised from eighteen to twenty-one.

LANDOWNER LIABILITY TO TRESPASSERS

This proposal specifies that possessors of real property owe no duty of care to a trespasser except for intentional acts. Three other exceptions are created where the possessor may be liable for the death or injury of a trespasser:

- (1) Children trespassers injured by a dangerous condition on the land;

FISCAL DESCRIPTION (continued)

- (2) Possessor knows that trespassers frequently intruded on an area with a dangerous artificial condition; or
- (3) Possessor knows of the trespassers presence and failed to warn of a dangerous condition.

CONDUCT AT PUBLIC MEETINGS

Currently, any action seeking monetary damage against a person for conduct or speech at a public hearing or meeting is subject to a special motion to dismiss, a motion for judgment on the pleadings, or a motion for summary judgment so it can be considered on an expedited basis. This act allows any action against a person for conduct or speech at a public hearing or meeting to be subject to these special motions.

UNCLAIMED SEIZED ELECTRONICS

This proposal specifies that computers, computer equipment, computer software and hardware, cellular telephones, or other devices capable of accessing the internet which are used by the owner or with the owner's consent as a means for committing felonies must be forfeited to the state. Such forfeited equipment that had been used in the acquisition, possession, or distribution of child pornography or obscene material may, upon a court order, be retained by the law enforcement agency and used in criminal investigations.

SENTENCING ADVISORY COMMISSION

The requirement that the Sentencing Advisory Commission biannually distribute its sentencing recommendations is eliminated. The commission is prohibited from making recommended sentences for specific cases pending in the courts.

RESTITUTION

Currently, restitution is to be paid to the victim by persons convicted of or pleading guilty to stealing or tampering with motor vehicles, watercraft, or aircraft. This act broadens the situations where restitution is paid to a conviction or pleading guilty to any offense.

This proposal requires restitution to be paid through the office of the prosecuting or circuit attorney. Each prosecuting or circuit attorney who takes action to collect restitution must assess the person paying restitution an administrative handling cost of \$25 for restitution for an amount of less than \$100, \$50 for an amount between \$100 and \$249, and a fee of 10% of the total

FISCAL DESCRIPTION (continued)

restitution for an amount of \$250 or more. The maximum fee for administrative handling costs is not to exceed \$75. A \$2 installment cost must also be assessed for each installment payment, except for the first installment, until the amount of restitution is paid in full.

The moneys collected by the prosecuting or circuit attorney must be deposited into the newly created Administrative Handling Cost Fund to be expended by the prosecuting or circuit attorney for office supplies and equipment, capital outlays, trial preparation expenses, additional staff, and employees' salaries. Money collected from persons convicted of or pleading guilty to passing bad checks must also pay a similar amount into the fund. Money collected in the fund will remain in the fund year to year and not revert to the general revenue fund.

In addition to the administrative handling cost, the prosecuting or circuit attorney must collect \$5 per each crime victim to whom restitution is paid to be deposited into the Missouri Office of Prosecution Services Fund.

Court-ordered restitution may be taken from an inmate's account at the Department of Corrections while the inmate is incarcerated; and upon release from imprisonment, the payment of any unpaid balance may be collected as a condition of conditional release or parole.

SEXUAL MISCONDUCT INVOLVING A CHILD

The crime of sexual misconduct involving a child is modified to include when a person knowingly coerces or induces a female child who is known by the person to be younger than 15 years of age to expose the breasts of a female child through the internet or other electronic means for the purpose of arousing or gratifying the sexual desire of any person, including the child.

FIRST DEGREE PROPERTY DAMAGE

The crime of property damage in the first degree is modified to include when a person knowingly damages a motor vehicle of another while making entry into the vehicle for the purpose of stealing it or the damage occurs while committing the crime of stealing within the vehicle. Anyone who commits this crime will be guilty of a Class C felony unless it is a subsequent violation in which case he or she will be guilty of a Class B felony.

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

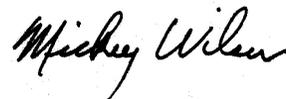
SOURCES OF INFORMATION

Department of Corrections
Office of Prosecution Services
Office of the State Courts Administrator
Department of Revenue
Office of the State Auditor
Office of the State Public Defender
Department of Public Safety
Attorney General's Office
Administrative Hearing Commission
Department of Labor and Industrial Relations
Missouri Department of Conservation
Department of Transportation
Department of Mental Health
Office of the Secretary of State
Missouri Senate
Office of the Governor
Joint Committee on Public Retirement
Prosecuting Attorneys and Circuit Attorney's Retirement System
City of Columbia
Jefferson City Police Department

NOT RESPONDING

Office of the State Treasurer
Missouri House of Representatives
Numerous Cities
Numerous Counties
Numerous Law Enforcement Agencies

Mickey Wilson, CPA



Director
April 30, 2012

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