

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5333-03
Bill No.: SB 790
Subject: Children and Minors; Courts; Crimes and Punishment; Criminal Procedure; Law Enforcement Officers and Agencies
Type: Original
Date: February 21, 2014

Bill Summary: This proposal modifies penalties for first degree murder when the person was under the age of 18 at the time of committing the offense.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(\$356,904)	(\$298,856)	(\$303,319)
Total Estimated Net Effect on General Revenue Fund	(\$356,904)	(\$298,856)	(\$303,319)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	4 FTE	4 FTE	4 FTE
Total Estimated Net Effect on FTE	4	4	4

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 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of the State Public Defender (MSPD)** assume there are 84 juveniles currently serving life without parole. This legislation appears to give them a new hearing if their case isn't final for purposes of appeal. MSPD estimates 5 of the 84 cases would be eligible under this proposed legislation. MSPD would incur a minimum of \$15,000 times 5 cases for litigation costs. Plus MSPD would have to contract out these 5 cases to private attorneys for the sentencing phase at a cost of approximately \$5,000 per case.

Assuming the MSPD provides representation in just 5 juvenile Murder 1st cases per year. The RubinBrown weight we used in our Budget Request was 85.9 for non-capital homicide, without taking into account travel or court time. Assuming an attorney can provide representation in just 3 of these types of cases per year, that is 693.3 hours (2080/3), which is 1.5 attorneys (3,035.5/2080). At 3 cases per year, it would require an additional 1.5 attorneys. Plus, these estimated 5 new cases would also require at least \$15,000 of litigation costs.

Oversight has reduced the FTE Assistant Public Defender from 1.5 FTE to 1.0 FTE.

Officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Office of the State Courts Administrator (CTS)** assume this proposal would not be in excess of \$100,000.

Oversight assumes that any costs from CTS relating to this proposal could be absorbed within their current appropriation level.

Officials at the **Department of Corrections**, the **Department of Mental Health** and the **Department of Social Services' Division of Legal Services** and the **Division of Youth Services** each assume no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE FUND			
<u>Costs - Office of the State Public Defender</u>			
Personal Service	(\$109,570)	(\$132,799)	(\$134,127)
Fringe Benefits	(\$55,886)	(\$67,734)	(\$68,411)
Equipment and Expense of 4 FTEs	(\$28,948)	(\$21,448)	(\$21,984)
One Time Litigation Costs	(\$75,000)	\$0	\$0
One Time Contract Counsel Costs	(\$25,000)	\$0	\$0
On Going Litigation Costs	<u>(\$62,500)</u>	<u>(\$76,875)</u>	<u>(\$78,797)</u>
<u>Total Costs - MSPD</u>	<u>(\$356,904)</u>	<u>(\$298,856)</u>	<u>(\$303,319)</u>
FTE Change - MSPD	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$356,904)</u>	<u>(\$298,856)</u>	<u>(\$303,319)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<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.

FISCAL DESCRIPTION

Under current law, offenders who were under the age of 18 at the time they committed first degree murder must be sentenced to life imprisonment without eligibility for probation, parole, or conditional release. In June of 2013, the U.S. Supreme Court in Miller v. Alabama held that mandatory life sentences without parole for juvenile criminal offenders are unconstitutional. As a result, there is no punishment for first degree murder under current law in Missouri that is enforceable against those who committed murder before they turned 18.

FISCAL DESCRIPTION (continued)

This act repeals the mandatory life sentence found to be unconstitutional in *Miller v. Alabama*. Under this act, a person who was 16 or 17 years old at the time of the crime may be sentenced to either imprisonment for at least 50 years or life imprisonment without parole. A person who was under the age of 16 may be sentenced to imprisonment for at least 35 years or life without parole. Under this act, the prosecutor must file a notice of intent to seek a punishment of life imprisonment without parole. The trier must consider certain specified factors relating to the defendant, the victim, and the crime when deciding to impose life without parole and must make findings on the record regarding those factors.

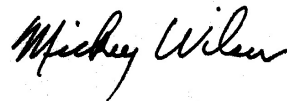
Any person who was sentenced to life imprisonment without parole for a crime committed before the person turned 18 whose case is not final for purposes of appeal may, within six months of the effective date of the act, file a motion with the sentencing court for a review of the person's sentence. This act specifies that the new procedures for juvenile first degree murderers do not apply to cases that are final for purposes of appeal. The offense of murder in the first degree was added to the definition of "dangerous felony".

This act repeals an obsolete provision, which states that certain trials are to proceed in a single stage. Other technical changes were made in this act to make the provisions align with amendments to the criminal code in SB 491 (2014). This act contains an emergency clause for the provisions setting out the penalty for first degree murder. A provision that changes a reference to the drug crime statutes has an effective date of January 1, 2016, which is the effective date for SB 491 (2014).

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 State Courts Administrator
Department of Corrections
Office of the State Public Defender
Department of Social Services' Division of Legal Services and Division of Youth Services
Office of the Attorney General
Department of Mental Health



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February 21, 2014

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February 21, 2014