

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 534-01
Bill No.: SB 001
Subject: Courts; Liability; Sunshine law; Civil procedure; Criminal procedure; Judges;
Administrative Law; St. Louis County; Retirement Systems and Benefits -
General; Children and Minors; Landlords and Tenants
Type: Original
Date: February 5, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$256,640 to UNKNOWN)	(\$315,668 to UNKNOWN)	(\$323,560 to UNKNOWN)
Highway Funds	(UNKNOWN)	(UNKNOWN)	(UNKNOWN)
Tort Victims' Compensation Fund	(\$257,598 to UNKNOWN)	(\$268,766 to UNKNOWN)	(\$275,449 to UNKNOWN)
Legal Services for Low Income People Fund	UNKNOWN	UNKNOWN	UNKNOWN
Total Estimated Net Effect on <u>All</u> State Funds	(\$514,238 to UNKNOWN)	(\$584,434 to UNKNOWN)	(\$599,009 to UNKNOWN)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Grant programs	UNKNOWN	UNKNOWN	UNKNOWN
Total Estimated Net Effect on <u>All</u> Federal Funds	UNKNOWN	UNKNOWN	UNKNOWN

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Counties	(\$0 to \$1,000,000)	(\$0 to \$1,000,000)	(\$0 to \$1,000,000)
Local Government	(\$0 to \$1,000,000)	(\$0 to \$1,000,000)	(\$0 to \$1,000,000)

Numbers within parentheses: () indicate costs or losses.

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Office of Administration - Administrative Hearing Commission, Department of Health, Department of Transportation, Department of Conservation, Department of Agriculture, Department of Social Services, Department of Mental Health, and Department of Elementary and Secondary Education** assume no fiscal impact to their agency.

Officials from the **Office of the Attorney General** assume the fiscal impact to their agency is unknown, and they note that several sections of the proposal will have unknown fiscal impact on the agency and the state. **Oversight** assumes the fiscal impact is unknown.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would: provide for review of a judicial commissioner's findings by a judge; increase the maximum amount of parental restitution for a juvenile from \$4,000 to \$20,000; remove traffic judges' authority to review certain Department of Revenue decisions; make changes to the law on fingerprinting persons convicted of a crime and not previously fingerprinted (§45.503.6); permit associate circuit judges to issue subpoenas (§56.085); provide for direct distribution of parenting handbooks (§452.556); authorize direct transfer of orders of protection from the court automated system to MULES (§455.040); provide procedures for review of actions by commissioners (§478.037); increase associate civil jurisdiction to cases involving up to \$50,000; modify the Tort Victims Compensation Fund (§537.675 to §537.693); provide for the originating county to cover costs in the civil change of venues (§550.120); modify closed records provisions (§610.105); revise provisions dealing with the Administrative Hearing Commission and Social Services (§621.055 to §621.198); and, other apparently technical and clarifying changes relating to operating procedures in the courts. The proposed legislation would eliminate civil trial de novo, except for small claims, and require that any appeal be on the record.

ASSUMPTIONS - continued

In FY 00, there were about 69,000 cases where there was a potential for a trial de novo appeal. Under the bill, these cases would all have to be heard on the record (sound recorded) so that any appeal would be on the record. We are not sure how many, but a substantial proportion of these cases are already sound recorded. There were about 3,455 municipal certifications and trial de novo cases.

There will be a need to sound record more cases to preserve the record. However, there will be a reduction in the trials de novo. The increase in the number of formal appeals to the Court of Appeals will probably be slight. On balance, there will be some increase in cost, but it is not likely that the higher cost would reach \$100,000 in any one year.

Oversight has ranged the additional costs from \$0 to \$100,000 per year.

The proposed legislation would also increase the jurisdiction of small claims courts from \$3,000 in dispute to \$5,000.

There were about 19,077 small claims cases disposed in FY 00. There were about 126,670 cases filed in associate divisions under Chapter 517 provisions (filing fee and other costs can be up to \$60.00). Of these about 69,000 are tort and contract cases which could be filed as small claims. Additionally, because the filing fee for small claims varies but, when other costs are included, the total fees, etc. do not usually exceed \$30.00, there will be revenue lost from associate circuit filings where the total costs and fees can be approximately \$60.00. This revenue would be lost to the state and the counties.

Small claims court clerks are required to assist parties in completing forms and explaining procedures. This is a very time consuming task which requires considerable ability to perform effectively. There is at least an additional 30 minutes or more in staff time required to assist petitioners in small claims cases than is required in Chapter 517 cases.

Trial de novo applies to both associate civil under \$5,000 and small claims cases. If we assume one half or 35,000 cases were to be switched to small claims, we would estimate that at least 30 additional minutes of staff time would be required (35,000 x 30 minutes). This is the equivalent of 9.72 FTE at \$23,184 plus fringes for each Court Clerk II. The estimate of half of the cases being filed appears reasonable because there are limits on the number of small claims which can be filed by a single petitioner.

ASSUMPTIONS - continued

The legislation amends §483.310 to repeal the authority for courts to spend earnings on the court's registry accounts and repeal the provision that balances be turned over to the county general fund. Thus, there are two impacts: 1) a source of money for court operating expenses has been eliminated, which will increase reliance on other county general revenue; and, 2) the county will lose a source of revenue because the transfer authority is repealed. Data on registry accounts in the various counties is not centrally reported. Thus, it is not possible to say, with precision, the magnitude of the impact on county budgets. Based on conversations with various courts at various times, it is fair to estimate the loss will exceed one million dollars in any year and may be substantially more.

Oversight has ranged the lost revenues from \$0 to \$1,000,000 per year.

The increase in civil jurisdiction of associate circuit judges should have no significant costs.

Officials from the **Department of Revenue (DOR)** assume the proposal will potentially increase costs to their department an unknown amount by requiring more staff attorney time to attend required court appeals of DOR administrative decisions.

Oversight assumes that this proposal may result in additional costs to DOR because it provides for review of a judicial commissioner's findings by a judge, and removes traffic judges' authority to review certain Department of Revenue decisions. These two provisions may cause more persons to request court review of DOR and lower-court decisions. As a result, DOR may incur an unknown amount of additional cost for DOR attorneys to attend these hearings.

In response to a similar proposal in the prior session, officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assumed the proposal would have a significant impact on the rules relating to orders of protection that are entered into the MULES system. This information is currently entered by the chief law enforcement officer responsible for maintaining the MULES system. However, the proposal would allow orders of protection to be entered using a direct automated data transfer from the court's automated system. MHP assumes CTS could require their agency to comply with the provisions outlined in the proposal. Therefore, MHP would have to review the training and audit processes within the MULES program with MHP's Communications Division and appropriate MULES committee members. The process of validation of entries, clearing, modifying and deleting would have to be considered and addressed.

As a result of the change in procedure as outlined above, MHP assumes that any costs associated with this legislation will be provided through federal grant money that is currently available for such purposes. Accordingly, MHP assumed no additional costs would result from the proposal.

ASSUMPTIONS - continued

Also, in response to a similar proposal in the prior session, officials from the **Department of Public Safety - State Highway Patrol (MHP)** assumed the proposal would require them to acquire and store all the biological case evidence specimens pertaining to felonies, as required under the database statute, for an unspecified amount of time.

In 1999 Missouri circuit court trials resulted in approximately 3,000 felony convictions meeting the database requirements; this may bring anywhere from 15,000 to 30,000 specimens per year, and this number would continue to grow since no time frame is specified. One of the crime lab's current evidence lockers is 230 square feet and stores approximately 5,000 specimens. Storing 30,000 specimens would require 6 times more space, or approximately 1,400 square feet. MHP would need a secure facility. This storage facility would need to be approximately 1,400 square feet.

The DNA convicted offender lab is 1,081 square feet and accommodates two capillary electrophoresis systems. If MHP were to analyze just 5,000 casework specimens per year, the caseload would increase ten-fold and would require five times the current manpower, leading to the need for a new lab and FTEs. MHP would need a new crime lab of 7,000 square feet to accommodate the new FTE. MHP assumes it would require 3 FTE Laboratory Evidence Technicians, 2 FTE Laboratory Records and Evidence Control Clerks, 5 DNA Technicians, 13 DNA Examiners, and 2 DNA Examiner Supervisors, plus related equipment and expense for each position.

Oversight assumes, based on DOC's assumptions, that there are 8,613 inmates serving sentences which fall under the felony provisions of the proposal. If 20% of those currently serving wish to serve notice to the prosecuting attorney and the trial court subsequently orders the state to compare DNA test results regarding the trial evidence and the defendant, MHP would be subjected to approximately 1,720 more cases. Allowing three pieces of evidence per case would bring the total additional specimen count to 5,160. Currently, MHP utilizes six FTE to perform DNA testing on approximately 3,000 specimens. To perform DNA testing on the additional specimens, Oversight assumes MHP would require 10 DNA Examiners plus the related equipment for each position. Oversight assumes there would be an increase in caseload during FY 2002 and FY 2003 as inmates begin utilizing this provision. The rush would likely subside by FY 2004; therefore, Oversight has included costs for FTE during FY 2002 and FY 2003 only. Oversight assumes MHP would lease crime lab space and equipment for FY 2002 and FY 2003; however, cost estimates are not available at this time and are reflected in this fiscal note as unknown. In addition, Oversight assumes MHP would require a storage facility for the additional DNA evidence it would be required to maintain.

ASSUMPTIONS - continued

Officials from the **Department of Corrections (DOC)**, in response to a similar proposal in the prior session, assumed it is not possible for DOC to estimate the number of cases that would occur in a year where this proposed DNA procedure would apply. Potentially, there are many thousands of offenders who could have an interest in pursuing a DNA evidence defense as the DNA analysis technology progresses over time. Looking only at the current inmate population for inmates confined for sex offenses and for inmates confined for offense categories that would be considered as Dangerous Felonies, DOC has 8,613 persons in prison that may fit into that group. DOC's responsibility in this matter extends beyond confined inmates and would also include persons on parole or on probation and this number is not included in the 8,613 figure noted in the above assumption.

The minimum cost for DNA forensic testing is \$450. DOC estimates the potential cost could be significant or in excess of \$100,000 annually.

Oversight assumes the costs for DNA testing will be incurred by the Missouri State Highway Patrol (MHP). Those costs are reflected in MHP's response.

Officials from the **Department of Labor and Industrial Relations - Division of Workers' Compensation (DOL)**, assume this legislation establishes responsibility in the Division of Workers' Compensation to administer and adjudicate claims of uncompensated tort victims against the Tort Victims' Compensation Fund.

The Division will establish and maintain a Tort Victims' Compensation Unit to receive, process and make awards for uncompensated tort victims. The Division will also establish and maintain a procedure to adjudicate these claims.

The impact of this program is very difficult to assess. In FY 98, the Office of the State Courts Administrator reports that 20,282 tort cases were disposed of. Over the last three fiscal years the average number of tort cases disposed of is 19,264 cases. This includes settlements, dismissals, defendants' verdicts, plaintiffs' verdicts and default judgments. It is impossible to determine how many cases will result in a verdict for the plaintiff that is uncollectible. This type of data is not collected. It is also impossible to determine how many uninsured motorist claims will be filed as tort cases because of accessibility to these funds. Attempts to obtain this type of information were made with the Missouri Association of Trial Attorneys and the Missouri Department of Insurance, respectively concerning SB 464 in the 1999 legislative session.

ASSUMPTIONS - continued

Funding for this program on an ongoing basis is questionable. The statute provides for 65% of punitive damages awards in final judgments to be paid to the Division into the Tort Victims' Compensation Fund. Currently, there are moneys over seven million dollars (\$7,000,000) in the Fund. This funding came from two unusual cases in Kansas City where the plaintiffs and defendants absolutely refused to settle the claim. This information is from the Attorney General's office. In most cases, the plaintiff and defendant settle any punitive damages, even after a jury award. This usually happens while the case is on appeal. Because the case is settled, there would be no final judgment and no payment to the Fund.

Since almost all cases involving tort claims involve claimant attorneys, it is assumed the potential for claims in cases of unsatisfied plaintiffs' judgements will be very high. For the purpose of this fiscal note, the Division assumes 10% of all cases disposed of will result in claims against the fund. Based on information previously cited, this is an average of 1,926 claims filed per year. This average is very close to the number of claims filed with the Division's Crime Victims' Compensation program each year. In FY 96 a total of 1,652 claims were disposed of, in FY 97 a total of 2,206 claims were disposed of, in FY 98 a total of 1,688 claims were disposed of by the Crime Victims' Compensation program.

The parameters of the program in verifying medical, funeral and legal bills, verifying court action and other requirements to establish the validity of a claim under this bill are very similar to the manner in which crime victims' compensation claims are handled. For that reason, the Division assumed staffing needs similar to the Crime Victims' Compensation program would be needed to handle the claims process. This includes (1) Program Manager, (1) Clerk Typist IV and (3) Clerk Typist IIIs. To ensure proper funding, this program must also employ (1) Legal Counsel to ensure compliance with the statutory provisions and the myriad of legal issues involved in tort claims to ensure proper funding.

Oversight has estimated DOL costs based on the amounts provided by DOL. Oversight eliminated office rental, assuming these employees could be located in existing space; eliminated the office equipment associated with locating these employees separately from other DOL employees; and reduced the estimated cost of PC printers.

Oversight assumes 35% of all payments received by the Tort Victims' Compensation Fund will be transferred to the Legal Services for Low-Income People Fund created by this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
Costs - Office of the Attorney General	(Unknown)	(Unknown)	(Unknown)
Costs - Missouri Highway Patrol Biological Evidence Program	(Unknown)	(Unknown)	None
Costs - State Courts Administrator			
Additional Sound Recordings	(\$0 to \$100,000)	(\$0 to \$100,000)	(\$0 to \$100,000)
Salaries	(\$192,485)	(\$236,757)	(\$242,676)
Fringe benefits	(\$64,155)	(\$78,911)	(\$80,884)
Expense and equipment	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$256,640 to UNKNOWN)</u>	<u>(\$315,668 to UNKNOWN)</u>	<u>(\$323,560 to UNKNOWN)</u>
HIGHWAY FUNDS			
Costs - Department of Revenue	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON HIGHWAY FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
TORT VICTIMS' COMPENSATION FUND			
<u>Cost</u> - Labor and Industrial Relations			
Personal Service	(\$157,325)	(\$193,511)	(\$198,348)
Fringe Benefits	(\$52,436)	(\$64,497)	(\$66,109)
Equipment	(\$38,962)	\$0	\$0
Expense	(\$8,875)	(\$10,758)	(\$10,992)
<u>Transfer</u> - Punitive damage awards - 35% of all payments received to Legal Services for Low-Income People Fund	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON TORT VICTIMS' COMPENSATION FUND	<u>(\$257,598 to Unknown)</u>	<u>(\$268,766 to Unknown)</u>	<u>(\$275,449 to Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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**LEGAL SERVICES FOR
LOW-INCOME PEOPLE FUND**

Revenue - Punitive damage awards - 35%
 of all payments received by the Tort
 Victims' Compensation Fund

Unknown	Unknown	Unknown
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**ESTIMATED NET EFFECT ON
LEGAL SERVICES FOR
LOW-INCOME PEOPLE FUND**

<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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Counties

Revenue reduction - interest	(\$0 to \$1,000,000)	(\$0 to \$1,000,000)	(\$0 to \$1,000,000)
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Total	<u>(\$0 to \$1,000,000)</u>	<u>(\$0 to \$1,000,000)</u>	<u>(\$0 to \$1,000,000)</u>
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FISCAL IMPACT - Small Business

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

DESCRIPTION

Makes changes to court procedures, court costs, appeals, changes procedures for payments from Tort Victims' Compensation Fund, mandates transfers from Tort Victims' Compensation Fund to Legal Services for Low Income People Fund, establishes procedures for criminal DNA testing program.

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 - Administrative Hearing Commission
Department of Health
Department of Transportation
Department of Conservation
Department of Agriculture
Department of Social Services
Department of Mental Health
Department of Elementary and Secondary Education
Office of the Attorney General
Office of State Courts Administrator
Department of Revenue (DOR)
Department of Public Safety – Missouri State Highway Patrol (MHP)
Department of Corrections
Department of Labor and Industrial Relations - Division of Workers' Compensation

NOT RESPONDING

Department of Higher Education
Department of Economic Development
Department of Natural Resources
Missouri State Employees Retirement System



Jeanne Jarrett, CPA
Director
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