

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0851-03
Bill No.: SB 279
Subject: Drugs and Controlled Substances; Courts; Criminal Procedure; Corrections
Department; Prisons and Jails; Probation and Parole
Type: Original
Date: February 13, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$60,000,000)	Unknown	Unknown
Substance Abuse Treatment Trust	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>All</u> State Funds*	Unknown to (\$60,000,000)	Unknown	Unknown

*Savings could exceed \$100,000 in any given year.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health, Department of Public Safety - Missouri State Highway Patrol**, and the **State Treasurer's Office** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Social Services - Division of Family Services (DOS)** stated that the Personal Responsibility and Work Opportunity Reconciliation Act of 1966 requires individuals convicted of a drug related felony to be disqualified, unless a state law exempts any or all individuals in the state from disqualification. The DOS assumes individuals currently ineligible for Temporary Assistance and/or Food Stamps due to a felony drug conviction may become eligible upon passage of this proposal once all conditions for having the charges dismissed are satisfied. The DOS assumes the number of individuals impacted by this proposal would be negligible. No additional staff will be required, as individuals found eligible may be part of an existing Temporary Assistance or Food Stamp case. Therefore, the DOS assumes no fiscal impact as a result of this proposal.

Officials from the **Department of Mental Health - Division of Alcohol & Drug Abuse (DMH)** assume the proposed legislation would have no fiscal impact on their agency. DMH assumes that all non-violent drug possession offenders will receive treatment through the current substance abuse treatment system (division providers). Because all treatment costs for these clients/offenders would come from the "Substance Abuse Treatment trust Fund" established by this proposal, there would be no cost to the DMH. The current number of offenders in this category being served by the DMH is unknown. If this proposal becomes law, DMH assumes an increase in the capacity of the substance abuse treatment system will become necessary to handle the increased number of client referrals.

Officials from the **Office of Prosecution Services** assume the costs of the proposed legislation can be absorbed within existing resources, as long as prosecutors are not responsible for the cost of treatment.

Officials from the **Office of the State Public Defender (SPD)** assume the proposed legislation would have a minimal fiscal impact on their agency. The proposal could result in a more wide use of drug courts, and each Public Defender Office could be in need of additional personnel to help with the team effort concept of Missouri's drug court system. It takes both a good deal of time and people to make the process run smoothly. Also, this legislation could result in Public Defenders' participation in the parole violation settings. Drug Court could be made a requirement for persons on parole. Also, Section 589.606.7 mentions dismissal of charges upon successful completion of drug treatment. This could mean that the Public Defender will be

ASSUMPTION (continued)

required to initiate such motions and have the appropriate hearings.

Oversight assumes the minimal cost could be absorbed with existing resources.

Officials from the **Office of State Courts Administrator (CTS)** assume there is the potential for significant cost to the courts. The proposal provides that if a person successfully completes a drug treatment program, he or she can petition the court at any time to dismiss the charges. The CTS have no way of estimating how many petitions there could be, but the number could be large. There is also the possibility that some prosecutors may file charges for greater offenses, resulting in more court or jury trials. Again, CTS has no way of estimating how many there could be.

For these reasons, and the ambiguity of some portions of the bill, CTS is not able to provide a precise estimate, but the cost could exceed \$100,000 in any year.

Officials from the **Office of Attorney General (AGO)** assume the proposed legislation will have an unknown cost to their agency. The AGO currently prosecutes a number of methamphetamine cases and other drug cases through its meth unit, and the AGO anticipates an increase in the number of probation and parole hearings where the AGO would have to appear under the provisions of this proposal. It is unclear what kind of increase would occur because it would depend on the circumstances of each probationer or parolee.

Officials from the **Department of Corrections (DOC)** assume this proposal creates the new definition of a “nonviolent drug possession offense” (NVDP) which typifies the offender for whom this bill is designed to treat. (Numbers of offenders who possibly would fit this description are not available at the time of the writing of this FN. Numbers will be provided as soon as data is reviewed and they are calculated and estimated.) The NVDP offender is to receive probation upon conviction, as defined. Probation and Parole would oversee the treatment process from an outside source as defined in this proposal, and the treatment process includes a treatment plan as well as reporting to and from the treatment provider. Much assessment and reporting duties and clinical decisions regarding the NVDP offender is required of the courts, as well as the DOC. The courts may alter and/or intensify drug treatment plans. If probation would be revoked, a hearing would be required. Parolees may fall under NVDP criteria and be ordered to treatment, etc., as well. Studies are to be made by DOC each year to identify the effectiveness and financial impact of various phases of this program.

Funding is to be provided by the “Substance Abuse Treatment Trust Fund” which is initiated with a \$60,000,000 appropriation from General Revenue monies (that will not revert back to General Revenue at close budget cycle) in FY 2002. DOC shall oversee distribution of monies

ASSUMPTION (continued)

to counties to cover drug treatment programs and any vocational training, family counseling, literacy training, etc., for the NVDP offenders that the court deems necessary, all as outlined within this proposal. Other reporting and evaluation areas (long-term study by a public MO university as well as county reporting and inter-departmental audits) are noted within the bill and are to be overseen by the DOC.

DOC would expend an unknown amount expected to exceed \$100,000 on administering this program. Additional personnel would be required in Fiscal Management for accounting and audit purposes and for an Administrator and support staff to monitor annual studies, reporting, etc., as noted above.

As previously noted, this note will be revised and updated when offender numbers are available.

Oversight assumes the proposal would result in a savings to the DOC, due to an increase in the number of offenders who will receive probation and a decrease in those incarcerated. Oversight assumes that this savings would exceed the cost of administering the Substance Abuse Treatment Trust Fund, resulting in an unknown savings to the DOC. The DOC has not provided a ten-year prison impact statement as required by Section 217.022 RSMo.

Oversight assumes that DOC costs for administering this proposal would come from the Substance Treatment Trust Fund. Oversight assumes the purpose of the Fund is to help counties defray costs of court-ordered programs for nonviolent drug possession offenders, but does not know if there would be enough money in the fund to defray all county costs. For fiscal note purposes, Oversight assumes that the Fund would not pay for all county costs.

<u>FISCAL IMPACT - State Government</u>	FY 2002	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Savings - Department of Corrections</u>			
Incarceration/probation costs	Unknown	Unknown	Unknown
<u>Costs - Office of State Courts</u>			
<u> Administrator</u>			
Court Costs	(Unknown)	(Unknown)	(Unknown)
<u>Costs - Office of Attorney General</u>			
Hearing costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2002	FY 2003	FY 2004
<u>Cost</u> - Transfer to Substance Abuse Treatment Fund	(\$60,000,000)	(\$0 to Unknown)	(\$0 to Unknown)

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*	<u>(\$60,000,000)</u>	<u>Unknown</u>	<u>Unknown</u>
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*FY 2002 costs do not include possible savings to DOC which could exceed \$100,000 in any given year.

SUBSTANCE ABUSE TREATMENT TRUST FUND

<u>Income</u> - Transfer from General Revenue Fund	\$60,000,000	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> - Department of Corrections - Administration	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Department of Corrections - Distributions to Counties	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON SUBSTANCE ABUSE TREATMENT TRUST 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

<u>Income</u> - Distributions from Substance Abuse Treatment Trust Fund	Unknown	Unknown	Unknown
<u>Costs</u> - Nonviolent Drug Possession Offender Programs	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON COUNTIES	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</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

The proposed legislation creates the "Substance Abuse and Crime Prevention Act of 2001." The proposal requires that persons convicted of a nonviolent drug possession offense shall receive
DESCRIPTION (continued)

probation, with the participation in and completion of an appropriate drug treatment program a condition of the probation. Defendants convicted of serious or violent felonies in violation of Chapters 565, 566, or 571, RSMo are not eligible, nor are those convicted of crimes involving physical injury or the use of a firearm. This proposal provides penalties for violation of probation and access of information to the information on individuals given a suspended imposition of sentence following the completion of probation.

This proposal also provides that parole may not be suspended or revoked for commission of a nonviolent drug possession offense or for violating any drug-related condition of parole. The participation in and completion of an appropriate drug treatment program shall be an additional condition of parole for such offenses or violations. Defendants convicted of serious or violent felonies in violation of Chapter 565, 566, or 571, RSMo are not eligible, nor are those who are found to have concurrently committed a misdemeanor not related to the use of drugs or any felony.

This proposal requires the general assembly to appropriate sixty million dollars from the general revenue fund to the substance abuse treatment trust fund to distributed to counties to cover the costs of placing persons in drug treatment programs.

This proposal would become effective July 1, 2001.

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 Health
Office of the State Public Defender
Department of Public Safety
 - Missouri State Highway Patrol
Department of Social Services
 - Division of Family Services
Department of Mental Health
Office of Attorney General
Department of Corrections
State Treasurer's Office
Office of Prosecution Services

SOURCES OF INFORMATION (continued)

NOT RESPONDING: Kansas City Manager's Office, City of St. Louis, Boone County Sheriff, Cole County Sheriff, Jackson County Sheriff, St. Louis County Sheriff, Greene County, Clay County, Jackson County Executive, Platte County

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive script.

Jeanne Jarrett, CPA
Director
February 13, 2001