

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 971-01  
Bill No.: SB 0269  
Subject: Civil Procedure; Attorneys  
Type: Original  
Date: February 2, 2001

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
General Revenue	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
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$257,598 to UNKNOWN)</b>	<b>(\$268,766 to UNKNOWN)</b>	<b>(\$275,449 to UNKNOWN)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Department of Transportation** and **Office of State Courts Administrator** assume no impact to their agencies.

Officials from the **Office of the Attorney General**, in response to a similar proposal, 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 **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.

Funding for this program on an ongoing basis is questionable. The statute provides for 50% 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.

ASSUMPTIONS - continued

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 25% 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
<b>GENERAL REVENUE FUND</b>			
Costs - Office of the Attorney General	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b>TORT VICTIMS' COMPENSATION FUND</b>			
<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 - 25% of all payments received to Legal Services for Low-Income People Fund	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON TORT VICTIMS' COMPENSATION FUND</b>	<b><u>(\$257,598 to Unknown)</u></b>	<b><u>(\$268,766 to Unknown)</u></b>	<b><u>(\$275,449 to Unknown)</u></b>
<b>LEGAL SERVICES FOR LOW-INCOME PEOPLE FUND</b>			
<u>Revenue</u> - Punitive damage awards - 25% of all payments received by the Tort Victims' Compensation Fund	Unknown	Unknown	Unknown
<b>ESTIMATED NET EFFECT ON LEGAL SERVICES FOR LOW-INCOME PEOPLE FUND</b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

### DESCRIPTION

Changes procedures for payments from Tort Victims' Compensation Fund and mandates transfers from Tort Victims' Compensation Fund to Legal Services for Low Income People Fund.

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 Transportation  
Office of State Courts Administrator  
Department of Labor

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

Jeanne Jarrett, CPA  
Director  
February 2, 2001