

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4097-06
Bill No.: SCS for SB 1152
Subject: Courts; Civil Procedure; Criminal Procedure; Juvenile Courts
Type: Original
Date: March 11, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(\$34,481) to \$1,865,519	(\$37,667) to \$1,862,333	(\$38,577) to \$1,861,423
State School Money	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(\$34,481) to \$1,865,519	(\$37,667) to \$1,862,333	(\$38,577) to \$1,861,423

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Federal Funds	\$10,534	\$13,026	\$13,416
Total Estimated Net Effect on <u>All</u> Federal Funds	\$10,534	\$13,026	\$13,416

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services, Department of Public Safety – State Highway Patrol**, and the **Department of Corrections**, assume the proposed legislation would have no fiscal impact on their agencies.

In response to a previous version of this proposal (SB 1152), officials from the **St. Louis County Sheriff's Office** assumed the proposed legislation would have no fiscal impact on their agency.

In response to a previous version of this proposal (SB 1152), officials from the **Callaway County Circuit Clerk's Office** assumed the elimination of advance filing fees or court cost assessments (§455.027) would increase the financial burden to the county. Also, the number of filing fees would increase, so the county would be liable for a greater number of fees.

In response to a previous version of this proposal (SB 1152), officials from the **Cole County Recorder of Deeds' Office** assumed costs would increase approximately \$25,000 per year due to the need for extra manpower to record, release, etc. liens.

Officials from the **Office of Secretary of State (SOS)** assume this bill establishes the State Court Judicial Administrative Revolving Fund and modifies various aspects of court administration. The State Court Administrator may promulgate rules to implement this bill. Based on experience with other divisions, the rules, regulations and forms issued by the State Court Administrator could require as many as 12 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the code because cost statements, fiscal notes and the like are not repeated in Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn. Based on these costs, the SOS estimates the cost of the proposal to be \$738 in FY 03 and unknown in subsequent years.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** assume this legislation should have little impact on their agency:

Section 429.470 – Creditor liens filed. If Missouri acts as a creditor in this situation, and the Debtor files bankruptcy, the State (MDOR) will have to monitor and collect on this judgment lien in Federal Court.

Section 488.5021.1 – Court ordered fee. If the person who pays the penalty fee files bankruptcy, there are possible consequences if they include a criminal fee in their bankruptcy proceeding. This may not affect the Department of Revenue unless the fee is a Motor Vehicle Administrative fee like the one for DWI, etc.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would revise various court administrative sections, including fee payments, filing procedures, cost assessments, and fine collections. The only provision that would have a significant fiscal impact on the courts is contained in Section 488.5021. This section would allow a court to assess an additional \$20 fee for penalties, fines, and sanctions not paid in full within 30 days of imposition.

Depending on the rate of assessment and collection, CTS estimates the range of possible collections is from \$1 million to \$1.9 million. The first figure, \$1 million, is based upon a 20% to 25% collection on misdemeanor and felony cases, and 10% on traffic. The second figure, \$1.9 million, is based on a collection rate of 40% of felonies and 75% of misdemeanors, and is the less likely amount of the two estimates.

Oversight assumes a \$20 fee for penalties, fines, and sanctions not paid within 30 days of imposition would result in an increase in fine revenue to the municipalities, counties, and local school districts. Oversight assumes the increase in fine revenue resulting from this proposal to the local school districts will decrease the contribution by the state to the State School Money Fund (through the General Revenue Fund).

Officials from the **State Treasurer's Office (STO)** assume this bill modifies various aspects of court administration. Section 476.059 establishes the "State Court Judicial Administrative Revolving Fund." The STO will administer and disburse moneys collected from the fund. Unexpended balances are exempt from biennium transfer until funds exceed the greater of ½ of the expenditures from the previous year or \$50,000. Since the bill does not mention interest, the fund will not retain any interest earnings. As it reads, the STO will require an FTE Accountant Analyst I, at \$31,610 per year, plus fringe benefits, expense and equipment. The STO estimates the cost of the proposal to be \$39,908 in FY 03; \$44,377 in FY 04; and \$45,488 in FY 05.

ASSUMPTION (continued)

Officials from the **Department of Social Services – Division of Child Support Enforcement (DCSE)** assume the proposal eliminates the requirement that DCSE send a copy of the administrative wage withholding on a non-custodial parent to the circuit clerk of the appropriate court, resulting in reduced office supply costs.

In order to estimate the fiscal impact of the proposal, DCSE calculated the number of case actions that would be affected by this legislation, considered the effect upon paper, copier/printer, and postage costs. The DCSE estimates the total savings to be \$2,361 for paper and \$16,800 for postage, for a total savings of \$19,161. The DCSE estimates the savings to the General Revenue Fund to be \$5,427 in FY 03; \$6,710 in FY 04; and \$6,911 in FY 05. The DCSE estimates the savings to Federal Funds to be \$10,534 in FY 03; \$13,026 in FY 04; and \$13,416 in FY 05.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Savings – Department of Social Services</u>			
Reduced copy/postage expense	\$5,427	\$6,710	\$6,911
<u>Savings – Decreased Transfers to State</u>	Unknown to	Unknown to	Unknown to
School Money Fund	\$1,900,000	\$1,900,000	\$1,900,000
<u>Costs – State Treasurer’s Office</u>			
Personal Service	(\$26,342)	(\$32,400)	(\$33,210)
Fringe Benefits	(\$9,486)	(\$11,667)	(\$11,959)
Equipment and Expense	<u>(\$4,080)</u>	<u>(\$310)</u>	<u>(\$319)</u>
Total Costs – STO	(\$39,908)	(\$44,377)	(\$45,488)
ESTIMATED NET EFFECT ON	<u>(\$34,481) to</u>	<u>(\$37,667) to</u>	<u>(\$38,577) to</u>
GENERAL REVENUE FUND	<u>\$1,865,519</u>	<u>\$1,862,333</u>	<u>\$1,861,423</u>

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
STATE SCHOOL MONEY FUND			
<u>Savings</u> – Decreased Distributions to School Districts	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
<u>Loss</u> – Decreased Transfers from General Revenue Fund	(Unknown to <u>\$1,900,000</u>)	(Unknown to <u>\$1,900,000</u>)	(Unknown to <u>\$1,900,000</u>)
ESTIMATED NET EFFECT ON STATE SCHOOL MONEY FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
FEDERAL FUNDS			
<u>Savings</u> – Department of Social Services Reduced copy/postage expense	<u>\$10,534</u>	<u>\$13,026</u>	<u>\$13,416</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$10,534</u>	<u>\$13,026</u>	<u>\$13,416</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
SCHOOL DISTRICTS			
<u>Increase in Revenue</u> – Additional \$20 fee for penalties, fines, and sanctions not paid within 30 days	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
<u>Reduction in Replacement Revenue</u> – Decreased distributions from the State School Money Fund	(Unknown to <u>\$1,900,000</u>)	(Unknown to <u>\$1,900,000</u>)	(Unknown to <u>\$1,900,000</u>)
ESTIMATED NET EFFECT ON SCHOOL DISTRICTS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
LOCAL GOVERNMENTS			
Increase in Revenue – Additional \$20 fee for penalties, fines, and sanctions not paid within 30 days	Unknown to <u>\$1,900,000</u>	Unknown to <u>\$1,900,000</u>	Unknown to <u>\$1,900,000</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	Unknown to <u>\$1,900,000</u>	Unknown to <u>\$1,900,000</u>	Unknown to <u>\$1,900,000</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation would change several provisions relating to court procedures and jurisdiction. In its major provisions, the proposal would:

1. Provide that the county clerk, not the circuit clerk, shall serve as the temporary chair of the salary commission. (Section 50.333)
2. For purposes of set-offs, the definition of state agency would include the state supreme court, courts of appeal and any circuit court of this state. (Section 143.782)
3. Provide for mechanic's liens to be filed directly with the recorder of deeds office. Currently, such a lien must be filed with the clerk of the circuit court. The act would delete section 478.725 concerning the filing of mechanic's liens in Marion County. (Sections 429.032, 429.080, 429.090, 429.120, 429.160, 429.270 to 429.460)
4. Transfer duties regarding filing of liens to the recorder of deeds. Judgement creditors would be responsible for forwarding copy of judgment to the Secretary of State. (Sections 429.470, 429.490, and 429.540)
5. Delete the requirement that the Division of Family Services must file all income withholding orders with the circuit clerk in child support cases. (Section 454.505)

DESCRIPTION (continued)

6. No filing fees would be assessed to a petitioner in an action seeking a protective order. Only the petitioner would be able to terminate an order of protection. If the order granted child custody to the respondent, then the proposal would provide procedures for both parties to agree or object to a request for termination. (Sections 455.027, 455.504, and 455.060)
7. Provide that foreign orders of protection would be enforceable in state courts. The foreign order could be filed in the circuit court having jurisdiction. No fee or cost could be charged for the filing of the foreign order. (Section 455.067)
8. If a full order of protection is granted, a respondent could be ordered to pay petitioner's attorney fees. (Section 455.075)
9. The clerk of the court would make the uniform forms adopted by the supreme court available to petitioners. Section 455.508 would be deleted based on changes to section 455.504. (Section 455.504)
10. The clerk would notify the guardian ad litem of appointment immediately and give the guardian the names of the parties within 24 hours. (Section 455.504)
11. Any moneys received in connection with preparation of court transcripts would be deposited in the State Court Administration Revolving Fund. (Section 476.058)
12. Provide that interpreters and translators cannot be compelled to testify to information that is otherwise attorney-client privileged. The interpreter/translator would be allowed a reasonable fee. The proposal would provide when that fee shall be paid by the Office of State Courts Administrator. (Section 476.061)
13. Amend the process for filling vacancies of any unexpired term of the Executive Council of the Judicial Conference. (Section 476.340)
14. Expand the Fine Collection Center to accept tickets for littering and clarify how notice is sent to the party. (Section 476.385)
15. Certain fees for the filing of liens and for additional summons would be deleted. (Section 488.012)
16. Allow a court to collect unpaid court costs in excess of \$25 by seeking a set-off of the person's tax refund. (Section 488.020)

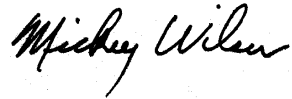
DESCRIPTION (continued)

17. Provide that the judgment collected in juvenile proceedings is payable to the Family Services and Justice Fund. (Section 488.2300)
18. The Crime Victim's Compensation Judgement and county fee payable in felony and nonfelony criminal violations would be paid upon the plea of guilty or upon a finding of guilt. Exceptions would be made for certain misdemeanors. (Sections 488.4014 and 595.045)
19. Create the time payment fee. Courts could impose such a fee on all fines, fees or sanctions not paid in full within 30 days. The act would provide for distribution of the fee to the local court, court automation fund and drug court fund. (Section 488.5021)
20. Allow interpreter fees for witnesses in juvenile proceedings and domestic violence actions. (Section 491.300)
21. Provide the master jury list created from source lists. Names of potential jurors on the master jury list would be a public record. (Section 494.410)
22. The qualified jury list and petit jury list would only be disclosed by local rule. (Sections 494.415 and 494.420)
23. Provide that judgments entered by associate courts would be liens on real estate without the filing of a transcript judgement. (Sections 511.350 and 517.151) The clerks, not just circuit clerks, could furnish and enter abstracts. (Section 511.510). The proposal would delete section 517.141 related to the treatment of transcript judgements by the clerk of the court.
24. Clarify what information must be reported to the Missouri State Highway Patrol for DWI cases. (Section 577.051)
25. Delete sections 57.290 and 67.133 that were moved to different statute numbers.

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 and Senior Services
Department of Revenue
Department of Social Services
Office of Secretary of State
Office of State Courts Administrator
State Treasurer's Office
Department of Public Safety
 – Missouri State Highway Patrol
Department of Corrections
Callaway County Circuit Clerk
St. Louis County Sheriff
Cole County Recorder of Deeds



Mickey Wilson, CPA
Acting Director

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