

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5112-01
Bill No.: HB 1253
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies
Type: Original
Date: January 24, 2012

Bill Summary: This proposal requires any person who pleads guilty to or is found guilty of certain misdemeanor or felony offenses or who has his or her probation revoked to be liable for specified costs involved in the prosecution.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	Unknown - may exceed \$100,000	Unknown - may exceed \$100,000	Unknown - may exceed \$100,000
Total Estimated Net Effect on General Revenue Fund	Unknown - may exceed \$100,000	Unknown - may exceed \$100,000	Unknown - may exceed \$100,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Other State Funds	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	5 FTE	5 FTE	5 FTE
Total Estimated Net Effect on FTE	5	5	5

- 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 2013	FY 2014	FY 2015
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Prosecution Services** assume the proposal would not fiscally impact their agency. This would result in positive fiscal impact to local prosecuting attorney's offices, but the exact amount is unknown.

Officials from the **Office of State Public Defender** did not respond to our request for fiscal impact.

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed legislation would authorize the court to impose prosecutorial and investigative costs on persons convicted of misdemeanors or felonies or whose probations or parole is revoked.

We are unable to predict any amount of money that might flow to prosecuting or circuit attorneys, law enforcement agencies, probation and parole officers, and fire departments involved in arson investigations.

This would cause workload and fiscal impact on the courts. Based upon our clerical weighted workload statistics, we estimate the increase in workload would require 5 additional court clerks and cost \$215,000. This estimate is based upon an assumption that CTS would have to attempt to collect proceeds resulting from 77,477 misdemeanor cases (100% of the annual guilty dispositions) and 28,687 felony cases (75% of the annual 38,249 guilty dispositions). Assuming an average of 5 minutes spent on each case, CTS assumes the need for five additional FTE. CTS did not provide an estimate on the amount of proceeds that would be collected as a result of this proposal.

Officials from the **Department of Corrections (DOC)** state this bill proposes to authorize the court to impose prosecutorial and investigative costs on persons convicted of misdemeanors or felonies or whose probation or parole is revoked.

There are both court ordered parole pursuant to §559.100 and board ordered parole, §217.655. It appears the proposed language in §550.500 refers to court ordered parole only. A potential increase in revocations will have a fiscal impact on the DOC. Currently, the DOC cannot predict the number of new commitments which may result from the enhancement of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY11 average of \$16.878 per offender, per day, or an annual cost of \$6,160 per inmate) or through supervision provided by the Board of Probation and Parole (FY11 average of \$5.12 per offender, per day or an annual cost of \$1,869 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional costs to the department and the exact fiscal impact is unknown.

The **Department of Public Safety - Missouri Highway Patrol (MHP)** state because this would involve repaying costs involved in the investigation and prosecution of those cases incurred by law enforcement agencies, the Highway Patrol assumes that we would receive some share of the money from fines related to misdemeanor and/or felony convictions. In 2010 and 2011, the average number of misdemeanor convictions per year was 3,025, and the average of felony convictions per year was 924. However, in determining our average, certain convictions may be included that would not be applicable to this law. The Patrol could receive as little as \$0 or as much as 100% of all the fines received from a conviction. Therefore, the Patrol will be showing this as a range, with the high end of the range being \$1,600,500 ($3,025 \times \$300 = \$907,500$, plus $924 \times \$750 = \$693,000$). Since these are non-traffic convictions, the Patrol assumes most of these will be General Revenue related, although some Highway funds could be involved.

In response to a similar proposal from 2011 (HB 634), the MHP stated they have a similar program called the "DWI Recoupment Program" in which the MHP can request the courts to impose a fee on DWI offenders. If the courts impose a fee, the proceeds are collected and then distributed to the various Highway Patrol troops. MHP stated the program totaled roughly \$547,000 in FY 2010.

The MHP assumes that they would receive some share of the money from fines related to misdemeanor and/or felony convictions. In 2009 and 2010, the average number of misdemeanor convictions per year was 3,478, and the average for felony convictions per year was 1,080. However, in determining our average, certain convictions may be included that would not be applicable to this law. Therefore, the high end of this range is probably not realistic, and the more accurate number would be somewhere in the middle of this range. The Patrol could receive as little as \$0 or as much as 100% of all the fines received from a conviction. Therefore, the Patrol will be showing this as a range, from \$0 to \$1,853,400 ($3,478 \times \$300 = \$1,043,400$, plus $1,080 \times \$750 = \$810,000$). Since these are non-traffic convictions, the Patrol assumes most of these will be General Revenue related, although some Highway funds could be involved.

ASSUMPTION (continued)

The ranges for proceeds that will be attempted to be collected from this proposal is between \$50 and \$300 per misdemeanor case, and between \$100 and \$750 per case for felonies. **Oversight** does not know the collection rate (what percentage of the allowed reimbursable costs would actually be collected) that CTS could expect. Using CTS's estimates of the number of cases, the ranges for potential income from this proposal would be:

LOW RANGE		HIGH RANGE	
Misdemeanors-	80,642 x \$ 50 = \$4,032,100	Misdemeanors-	80,642 x \$ 300 = \$24,192,600
Felonies	- 29,486 x \$100 = \$2,948,600	Felonies	- 29,486 x \$750 = \$22,114,500
Total	\$6,980,700	Total	\$46,307,100
Collection Rate	Unknown	Collection Rate	Unknown
Net Collections	Unknown	Net Collections	Unknown

Oversight will assume the amount collected from the misdemeanor and felony cases will be enough to cover the costs of the new FTE for CTS as well as the extra expense incurred by DOC for extended probation periods. Therefore, Oversight will assume a net positive fiscal impact to the General Revenue Fund after the additional expenses as well as potential reimbursement payments. Oversight assumes reimbursement payments may be made to various other state funds (such as the Highway Patrol or Water Patrol) as well as to local political subdivisions for investigative / prosecution costs.

This proposal could increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Income - CTS</u>			
Reimbursement of prosecutorial and investigative costs	Unknown	Unknown	Unknown
<u>Costs - CTS</u>			
CTS dispensing of the collected fees to the various entities that may have incurred costs in the investigation / prosecution of the offender	(Unknown)	(Unknown)	(Unknown)
<u>Costs - CTS</u>			
Personal Service (5 FTE)	(\$114,850)	(\$139,198)	(\$140,590)
Fringe Benefits	(\$60,802)	(\$73,691)	(\$74,428)
Expense and Equipment	(\$3,885)	\$0	\$0
<u>Total Costs - CTS</u>	(\$179,537)	(\$212,889)	(\$215,018)
<u>Costs - DOC</u>			
Increased number of persons who remain on probation because they do not timely pay restitution costs	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	Unknown - may exceed <u>\$100,000</u>	Unknown - may exceed <u>\$100,000</u>	Unknown - may exceed <u>\$100,000</u>
Estimated Net FTE Change for General Revenue	5 FTE	5 FTE	5 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2013 (10 Mo.)	FY 2014	FY 2015
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OTHER STATE FUNDS

<u>Income</u> to various state funds for reimbursement of investigation / prosecution costs collected from offenders	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT TO OTHER STATE FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
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LOCAL POLITICAL SUBDIVISIONS

<u>Income</u> to local public safety agencies, prosecutors, fire safety, etc. for reimbursement of investigation / prosecution costs collected from offenders	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<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.

FISCAL DESCRIPTION

This bill requires any person who pleads guilty to or is found guilty of a misdemeanor or felony offense other than a traffic violation or any person who has his or her probation or parole revoked to be liable for the costs of specified personnel involved in the investigation and prosecution of his or her case.

In its main provisions, the bill:

- (1) Requires the court to include these costs in every judgment rendered against the convicted person;
- (2) Requires the court to impose the costs of investigation and prosecution in an appropriate amount, regardless of the defendant's ability to pay;
- (3) Specifies that the court must require a defendant to pay the costs within a specific period of time or in specified installments;
- (4) Specifies that if a defendant is placed on probation or parole, payment of any of these costs must be a condition of probation or parole, and the court can revoke probation or parole if the defendant fails to pay these costs;
- (5) Requires the prosecuting or circuit attorney, prior to adjudication, to file with the court a statement that contains the requested amount of costs for the office, for each investigative agency involved, and for any probation or parole office involved;
- (6) Specifies that costs for misdemeanor cases and probation and parole revocation hearings must be between \$50 and \$300 per case and costs for felony cases must be between \$100 and \$750 per case, unless the prosecuting or circuit attorney submits a detailed statement along with sufficient supporting documentation demonstrating the need for the imposition of costs higher than the designated range;
- (7) Specifies that costs can include any actual expenses incurred in conducting the investigation and prosecution of the case, including salaries of employees of the prosecuting or circuit attorney's office, the investigative agencies, and the probation and parole office; and
- (8) Requires the circuit clerk to collect and dispense cost payments in any case.

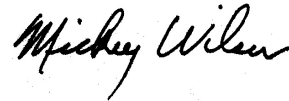
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

RS:LR:OD

SOURCES OF INFORMATION

Office of the State Courts Administrator
Department of Public Safety
Office of Prosecution Services
Department of Corrections

NOT RESPONDING:
Office of the State Public Defender



Mickey Wilson, CPA
Director
January 24, 2012