

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4127-03  
Bill No.: SCS for HB 1249  
Subject: Courts; Criminal Procedure; Judges; Crimes and Punishment; Probation and Parole; Political Subdivisions; Attorneys; Liability; Judges  
Type: Original  
Date: May 9, 2018

Bill Summary: This proposal modifies provisions regarding nuisance actions in the City of Springfield, municipal courts, treatment courts, court reporter costs, guardian ad litem fees, sealing of civil judgments, and municipal prosecutors serving as city attorneys.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>Total Estimated Net Effect on General Revenue*</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

\*Depending on fee change (if any)

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 14 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</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 FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Local Government</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

## FISCAL ANALYSIS

### ASSUMPTION

**Oversight** was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

#### §§82.1025, 82.1027 & 82.1028

In response to similar legislation from this year, SB 554, officials at the **Department of Natural Resources** and the **Office of the State Public Defender** each assumed no fiscal impact to their respective agencies from this proposal.

Officials at the City of Springfield did not respond to **Oversight's** request for fiscal impact.

#### §§208.151, 217.703, 478.001, 478.003, 478.004, 478.005, 478.007, 478.009, 478.466, 478.550, 478.600, 478.716, 488.2230, 488.5358 & 577.001

Officials at the **Department of Corrections (DOC)** assume no fiscal impact from this proposal. Section 217.703 establishes the rules and regulations of earned compliance credits (ECC) for offenders on probation, parole, or conditional release. With the new legislation, a section 12 is added which governs ECCs. An offender (on field supervision), upon entering into a treatment court, will have all ECC accrual suspended until completion of its program. At that point, all accumulated ECCs accrued during the time of suspension are retroactively applied if the offender successfully completed his/her time in treatment court. If the offender fails completion of treatment court, the offender accrues no ECCs during the time period.

To understand the impact of this bill, an analysis was done on current drug court programs used during field supervision. In FY17, a total of 9,127 offenders were discharged from probation, parole, or conditional release using earned compliance credits. Of these, 548 attended a drug court program during field supervision. Forty-four percent were unsuccessful in completing the drug program (241 individuals); they spent an average of 0.87 years in the program. From these findings, the estimated impact of this proposal is that each year 241 persons on field supervision will not earn ECC for 10 months which results in 5 more months of field supervision.

With the enactment of this proposal, an additional 101 offender-years will occur each year in field supervision.

ASSUMPTION (continued)

	# to Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)	Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (10 months)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 2 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 3 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 4 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 5 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 6 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 7 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101

Year 8 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 9 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 10 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101

Officials at the **Missouri State Employees' Retirement System (MOSERS)** assume the provisions of SCS for HB 1249 (4127-03) as they apply to the Judicial Retirement Plan which is administered by the MOSERS Board of Trustees, would, if enacted, clarify in Section 478.003, RSMo., that drug court commissioners (changed to treatment court commissioners in this proposal) shall have the same qualifications, compensation and retirement benefits of an associate circuit judge.

Background:

Since the provisions of section 478.003.1, RSMo, were first passed in 1998, the provisions have been administered to included drug court commissioners are members of the Judicial Retirement Plan. It is our understanding that there are currently 9 drug court commissioners covered under the Judicial Retirement Plan.

Fiscal Impact on MOSERS:

The provision under section 478.003.1, RSMo in SCS for HB 1249 would have no fiscal impact on MOSERS.

In response to similar legislation from this year, SCS for HB 2562, officials at the **Missouri National Guard** assumed no fiscal impact from this proposal.

ASSUMPTION (continued)

§§302.321, 302.341, 479.020, 479.353, 479.354 & 479.360

Officials at the **Department of Revenue** assume the following:

§302.321.1&3 - Adds provisions for drivers that have been previously suspended pursuant to section 302.341, to now be charged under section 302.020 shall be deemed to not have a valid license.

§302.341.2 - The proposed legislation adds "Except as provided in subdivision (5) of section 479.535". The Department will process all suspensions received for Instate Failure to Appear on minor traffic violations and assumes the court will practice due diligence and only submit suspensions on drivers that meet this criteria.

§479.353(6) - The proposed legislation would allow courts to suspend for minor traffic violations for drivers that have failed to appear in court when summoned.

Administrative Impact

The proposed legislation allows drivers found to be driving while suspended because of an Instate Failure to Appear action, to now be convicted for "no valid license" instead of "driving while suspended". The Department may show an unknown decrease in point accumulation suspensions and/or revocations.

The Department will process all suspensions received for Instate Failure to Appear on minor traffic violations and assumes the court will practice due diligence and only submit suspensions on drivers that meet this criteria. This will cause an increase in suspensions received by the Department.

A Revenue Processing Technician I (RPT I) can process 440 documents per day. The Department will absorb the increase of suspensions received with existing staff. If the volume of documents received is higher than anticipated, additional FTE will be requested through the appropriation process.

ASSUMPTION (continued)

To implement the proposed legislation, the Department will be required to:

- " Update procedures; and
- " Train employees

FY 2019 - Driver License Bureau

Administrative Analyst I	40 hrs. @ \$14.70 per hr.	= \$ 588
Management Analysis Spec II	40 hrs. @ \$20.57 per hr.	= \$ 823
Total Costs		\$1,411

The Department assumes it will be able to absorb the above listed costs. If multiple bills pass which require Department resources and updates, the Department could request additional FTE and related equipment and expenses through the appropriation process.

Revenue Impact

The Department will have a decrease in point accumulation reinstatement fees of \$20 for each suspension or revocation no longer applied to a record, and will have an increase of Instate Failure to Appear suspensions, that also require a \$20 reinstatement fee. The increase in Instate Failure to Appear reinstatement fees should offset the loss in point accumulation reinstatement fees.

Any fees collected will be distributed 75% Highway Fund, 15% Cities, and 10% Counties.

In response to similar legislation from this year, SCS for HB 2562, officials at the **City of Kansas City** assumed this legislation would have a positive fiscal impact on the City of Kansas City, Missouri, for the following reasons:

1. It sets forth a procedure for suspension of driving privileges by the Department of Revenue if non-minor traffic violations are not disposed of. For some people, the only reason to actually appear and/or pay a ticket is to keep a driver's license from being suspended. Incentive to keep a driver's license equals more fine payments.

ASSUMPTION (continued)

2. It changes the definition of minor traffic violations. Excluded from the fine limitations are no insurance tickets, speeding more than 15 miles over the speed limit (as opposed to the 19 miles over currently) and most importantly, original charges that are non-minor traffic violations that are amended to non-moving violations. An example would be a Driving While Suspended charge. If reinstated, our typical amendment is to an improper registration charge. Prior to the restrictions, our recommended fines were \$300 plus costs. After restriction, the City could only charge \$175 plus costs. Every day, our Municipal Court gets requests from attorneys wanting to amend a higher speed charge to defective equipment for larger fines rather than a probation and we cannot oblige due to the restrictions.

In response to similar legislation from this year, SCS for HB 2562, officials at the **City of Springfield** assumed a potential positive impact to the City of more than \$300,000 annually. After the implementation of SB 5 from the 2015 session, the money brought into the court decreased approximately \$370,000 annually over the last two years. This proposal would reverse the impact from SB5.

In response to similar legislation from this year, SCS for HB 2562, officials at the **City of Columbia** assumed a minimal fiscal impact to the City from this proposal.

In response to similar legislation from this year, SCS for HB 2562, officials at **St. Louis County**, the **Callaway County Commission** and **Boone County** each assumed no fiscal impact to their respective entities from this proposal.

In response to a previous version, officials at the **Office of the State Public Defender** assumed no fiscal impact from this proposal.

In response to a previous version, officials at **St. Louis County**, the **City of Springfield**, the **City of Columbia** and the **City of O'Fallon** each assumed no fiscal impact to their respective entities from this proposal.

ASSUMPTION (continued)

§479.190

In response to a previous version, officials at **St. Louis County** assumed no fiscal impact from this proposal.

§488.2250

In response to similar legislation from this year, HCS for SB 871, officials at the **Office of the State Public Defender (SPD)** assumed a negative unknown cost for this proposal.

**Oversight** notes that SPD's response has changed from last year. In response to similar proposals from 2017, the SPD stated historically speaking, this proposal could cost SPD more than \$100,000. Oversight will reflect a potential increase in fees of an unknown amount.

In response to similar legislation from this year, HCS for SB 871, officials at **St. Louis County, Boone County** and the **Callaway County Commission** each assumed no fiscal impact from this proposal.

§1

In response to a previous version, officials at **St. Louis County** assumed no fiscal impact from this proposal.

Bill as a Whole

Officials at the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

ASSUMPTION (continued)

Officials at the **Missouri Department of Transportation**, the **Department of Public Safety's Veterans' Commission** and the **Missouri Highway Patrol**, the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Social Services**, the **Office of State Auditor**, the **Office of the State Treasurer**, the **State Tax Commission** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>GENERAL REVENUE</b>			
<u>Cost</u> - SPD - Potential increase in court reporter fees (§488.2250)*	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b> *Depending on fee change (if any)	<b>\$0 or</b> <b><u>(Unknown)</u></b>	<b>\$0 or</b> <b><u>(Unknown)</u></b>	<b>\$0 or</b> <b><u>(Unknown)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Revenues</u> - municipalities - incentives/collection options for fine payments	Unknown	Unknown	Unknown
<u>Cost</u> - potential increase in court reporter fees (§488.2250)*	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>

FISCAL IMPACT - Small Business

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

## FISCAL DESCRIPTION

### §§302.321, 302.341, 479.020, 479.353, 479.354 & 479.360 - MUNICIPAL ORDINANCE AND MINOR TRAFFIC VIOLATIONS

If a defendant charged with a minor traffic or municipal ordinance violation fails to appear and the court finds there is not good cause for failing to appear, then the court may order the suspension of the defendant's driver's license, that the defendant serve community service, or that the defendant pay a civil penalty. If a civil penalty is ordered and the defendant fails to pay, then the court may submit to the Department of Revenue for collection of the penalty through setoff against any state tax refund owed. If a defendant's license is suspended and he or she subsequently operates a motor vehicle, then the defendant shall be guilty of a misdemeanor under the provisions regarding driving without a proper license (Sections 302.321, 479.353).

Currently, counties and towns with a municipal court must file with the State Auditor a report demonstrating compliance with certain municipal court procedures. One procedure is that the municipal court is to make use of community service alternatives at no cost to the defendant. This act removes the provision stating that the community service alternatives are to be offered at no cost to the defendant (Section 479.360).

### §488.2250

Currently for the preparation of all appellate transcripts of testimony or for proceedings in any circuit court, the court report shall receive three dollars and fifty cents per page. This act repeals the specification that the court reporter is to receive three dollars and fifty cents per page in circuit court proceedings. Also, the act repeals the provision specifying that the court reporter is to be reimbursed three dollars and fifty cents per legal page for the preparation of such transcripts.

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 the Attorney General  
Office of the State Courts Administrator  
Department of Corrections  
Office of Prosecution Services  
Office of the State Public Defender  
Department of Natural Resources  
Missouri State Employees' Retirement System  
Department of Revenue  
Department of Public Safety  
    Missouri Highway Patrol  
    National Guard  
    Veterans' Commission  
Department of Mental Health  
Missouri Department of Transportation  
Department of Health and Senior Services  
Department of Social Services  
Office of State Auditor  
Office of the State Treasurer  
State Tax Commission

SOURCES OF INFORMATION (continued)

St. Louis County  
City of Kansas City  
City of Springfield  
City of Columbia  
City of O'Fallon  
Callaway County Commission  
Boone County

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope".

Acting Director  
May 9, 2018