

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0788-02
Bill No.: HCS for HB 498
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: April 7, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol** and the – **Missouri State Water Patrol** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume some cases may become prolonged. CTS does not anticipate a significant fiscal impact on the judiciary.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of State Public Defender (SPD)** assume existing staff could provide representation for those few cases arising from the revision of various laws relating to stealing, receiving stolen property, and tampering and the requirement of specific type of restitution in certain types of cases, where indigent persons were charged. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume this proposal revises various laws relating to stealing, receiving stolen property, and tampering and requires a specific type of restitution in certain types of cases. Penalty provisions are enhanced in this proposal; however, DOC assumes that an offender could already be charged as a prior or persistent offender pursuant to existing statute.

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.

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 operational cost either through incarceration (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, DOC assumes the impact would be less than \$100,000 per year for their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
 <u>FISCAL IMPACT - Local Government</u>	 FY 2005 (10 Mo.)	 FY 2006	 FY 2007
	 <u>\$0</u>	 <u>\$0</u>	 <u>\$0</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 make changes to the laws regarding the crimes of stealing, tampering, and receiving stolen property. The proposal would:

- (1) Allow the court to order restitution be paid to the victim of tampering or auto theft, including the victim's payment for any repairs or replacement, towing and storage fees, and any reasonable expenses to participate in prosecuting the offense;
- (2) Prohibit the court or the Division of Probation and Parole from releasing a person early from probation or parole if the person has failed to pay restitution;
- (3) Make evidence of prior acts of tampering admissible to prove the requisite knowledge or belief in a current tampering case;

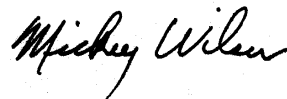
DESCRIPTION (continued)

- (4) Make tampering in the second degree a class C felony when the person has a prior conviction for tampering in the first or second degree, auto theft, or receiving stolen property;
- (5) Expand the crime of stealing to include obtaining control over property or services under circumstances that a reasonable person would know it was stolen and clarifies that the crime occurs when undercover police are posing as the sellers of stolen property; and
- (6) Make auto theft a class B felony when the person has two prior convictions for stealing-related offenses.

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 State Courts Administrator
Department of Corrections
Department of Public Safety
– Missouri State Highway Patrol
– Missouri State Water Patrol
Office of Prosecution Services
Office of the State Public Defender



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Director
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