

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2053-01
Bill No.: HB 796
Subject: Attorneys; Courts
Type: Original
Date: March 30, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
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 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of the State Public Defender (SPD)** assume the impact of the proposal on the Missouri State Public Defender System is uncertain, but would have a positive impact. The SPD would experience caseload relief and consistency in providing services to only eligible clients in eligible cases. Non SPD cases would not be paid from SPD's budget. However, SPD assumes no fiscal savings due to current SPD caseload levels.

Officials from the **Department of Corrections (DOC)** assume the bill revises the laws pertaining to public defenders by clarifying what type of cases they handle, allowing them to refuse cases in certain circumstances and gives the appeal to the director.

ASSUMPTION (continued)

The DOC is unsure if offenders determined to be indigent would have legal representation pursuant to passage of this proposal. Payment for private attorneys that offenders may be referred to if the SPD office is over-booked may put undue strain on county budgets. It may be that county funds would be non-existent. DOC does not have appropriation funding nor budget authority to pay for offender legal representation. Offenders' constitutional rights in relation to legal due process could be in jeopardy.

In summary, this proposal, if passed as statute, could affect DOC operations, and impact, both fiscal and programmatic, is unknown.

Oversight assumes the unknown cost to Department of Corrections is speculative. Therefore, Oversight has shown no fiscal impact.

Officials from the **Clay County** assume the proposal would cost the county no less than \$250,000 per year in additional court expenses.

Officials from **Boone County, Greene County, Jackson County, St. Charles County, and St. Louis County** did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
POLITICAL SUBDIVISIONS			
<u>Costs – Counties</u>			
Increased court expenses	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</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 allow public defenders to provide representation to individuals who are in the custody of the department and who are seeking post-conviction relief; individuals who are in the custody of the department, who have been determined to be indigent, and who have been granted a hearing under provisions relating to post-conviction DNA testing; and individuals who are indigent committed persons seeking conditional or unconditional release.

A public defender could refuse representation when the Director of the Office of State Public Defender determines that resources and caseloads in a jurisdiction are such that the public defender cannot provide competent and effective assistance of counsel. In cases where the director declines representation, the court could appoint a member of the Missouri Bar to represent the defendant.

A court or a party seeking public defender services is allowed to appeal the determination of indigency made by a defender to the director and specifies that courts may not appoint a public defender or any attorney employed by the Office of State Public Defender to undertake representation 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.

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SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Corrections
Office of the State Public Defender
Clay County

NOT RESPONDING

Boone County, Greene County, Jackson County, St. Charles County, St. Louis County



Mickey Wilson, CPA
Director
March 30, 2005