

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3590-03
Bill No.: HCS for HB 1316
Subject: Department of Corrections; Firearms and Fireworks; Law Enforcement Officers and Agencies; Crimes and Punishment
Type: Original
Date: April 3, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(More than \$237,554)	(More than \$238,749) to Unknown	(More than \$239,619) to Unknown
Total Estimated Net Effect on General Revenue Fund	(More than \$237,554)	(More than \$238,749) to Unknown	(More than \$239,619) to Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 17 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
State School Moneys*	\$0	\$0	\$0
DNA Profiling Analysis**	\$0	\$0	\$0
Highway	\$60,833	\$73,001	\$73,001
Criminal Records	\$2,818,333	\$3,985,000	\$4,685,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$2,879,166	\$4,058,001	\$4,758,001

* Offsetting savings and losses to State School Moneys Fund in FY 2008 and FY 2009.

**Offsetting Revenues and Costs in the DNA Profiling Analysis Fund of approximately \$700,000 per fiscal year.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government***	<u>(\$333,792) to Unknown</u>	<u>(\$404,797)</u>	<u>(\$477,858)</u>

*** Local School Districts would have offsetting income from increased fines and losses from reduced distribution from State School Moneys Fund in FY 2008 and FY 2009.

***Offsetting Revenues and Costs to Crime Laboratories of approximately \$700,000 per fiscal year.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture, Office of the Governor, Office of Administration – Administrative Hearing Commission, Department of Economic Development, Department of Transportation, Department of Mental Health, Department of Natural Resources, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Public Safety – Director’s Office, Department of Insurance, Missouri House of Representatives, Office of the Lieutenant Governor, State Auditor’s Office, Missouri Senate, State Treasurer’s Office, and the Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Coordinating Board for Higher Education** assume the proposal could result in a negative fiscal impact if it is the responsibility of the CBH to cover the costs associated with background checks on applicants and gubernatorial appointees.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposal may result in an increase in the number of cases filed, which may impact the workload of the courts. CTS would not expect this increase to be in excess of \$100,000.

CTS assumes the proposed legislation would also extend the August 28, 2006 expiration date for the \$30 surcharge on certain criminal cases to 2013. In the first eleven months of 2005, \$643,614 was deposited into the DNA Profiling Analysis Fund. With the extension of the expiration date, CTS would anticipate that approximately this amount would be deposited into the fund in any given year.

Oversight assumes funds deposited into the DNA Profiling Analysis Fund would be distributed by the Department of Public Safety to crime laboratories for the implementation of the DNA Profiling System.

Oversight assumes this proposed legislation extends an existing provision by removing or changing the expiration date. Oversight assumes removing or changing the expiration date will extend any fiscal impact associated with the existing provision. Therefore, Oversight has reflected the fiscal impact in the fiscal note.

ASSUMPTION (continued)

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the proposal would increase the fee for background checks by \$4 and allow the fee for background checks to increase by \$1 per annum. DESE states school districts conducted 74,061 background checks and 67,826 fingerprint searches in Calendar Year 2005. DESE estimates the cost to school districts to be \$354,070 in FY 07, \$428,131 in FY 08, and \$502,192 in FY 09.

DESE assumes there is no state cost to the foundation formula associated with the increases in fines or penalty distributions in this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Corrections (DOC)** assume they cannot currently 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 (FY05 average of \$39.13 per inmate, per day or an annual cost of \$14,282 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.

ASSUMPTION (continued)

In summary, supervision by the DOC through incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of \$100,000 per year.

Officials from the **Department of Revenue (DOR)** assume the legislation will produce an estimated 4,160 court ordered suspensions/revocations per year. DOR assumes they would require 1 FTE Revenue Licensing Technician I (at \$22,922 per year) to process the additional workload that will result from this legislation.

DOR assumes they would incur forms costs in the amount of \$143 in FY 07 and \$175 in FY 08 and FY 09. DOR assumes they would incur envelope costs of \$293 in FY 08 and \$351 in FY 08 and FY 09. DOR assumes they would incur postage costs of \$2,853 in FY 07, and \$3,423 in FY 08 and FY 09.

DOR assumes the total cost of the proposal to be \$39,471 in FY 07, \$41,118 in FY 08, and \$42,059 in FY 09.

DOR assumes at \$45 reinstatement fee will be assessed on these suspensions/revocations, resulting in an estimated increase in revenues of \$81,110 for FY 07 and \$97,335 in FY 08 and FY 09. These revenues would be distributed 75% to the State Highway Fund, 15% to cities, and 10% to counties.

Oversight assumes DOR would house the FTE within existing facilities. Therefore, Oversight has reduced the equipment and expenses to eliminate the rent.

Officials from the **Department of Social Services – Human Resource Center (HRC)** assume the language regarding the background checks is not mandatory. As it is not mandatory and because HRC does not know which divisions may utilize this option and for how many job classes, a cost cannot be determined. Therefore, HRC assumes an unknown cost.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the Criminal Records and Identification Division (CRID) would conduct 700,000 name searches per year based on current activity. There will be an increase of \$1 every January 1st until the fee reaches a maximum of \$15, which means an increase of \$700,000 per year until 2012, when it will level off.

ASSUMPTION (continued)

CRID assumes they would conduct criminal history background checks on no more than 50 gubernatorial appointees during an election year and less during off years. State processing fingerprint fees are \$14 (waived at the current time for state employees). FBI processing fingerprint fees are \$24 (pass-through fees to the FBI). 50 appointees x \$24 = \$1,200 (pass-through fees to the FBI – not retained in the Criminal Records System Fund).

CRID assumes fingerprint fees will increase to \$15 on August 28, 2006. MHP assumes approximately 135,000 fingerprint searches per year x \$1 extra fee = \$135,000 per year.

CRID assumes an increase in total revenues of \$2,819,533 in FY 07, \$3,986,200 in FY 08, and \$4,686,200 in FY 09.

MHP also assume there are three individuals who may qualify for restitution. MHP estimates the total payments to total \$875,000. MHP assumes payments of \$36,500 per person per year would reach \$109,500 per year. Since MHP cannot estimate how many individuals will receive restitution, officials assume the impact may be from \$0 to \$109,500 per year.

Oversight has not reflected the \$1,200 pass-through fees to the FBI. In response to a similar proposal (HB 1320, LR # 4087-01), MHP assumed no fiscal impact for the because this amount is so small.

Oversight assumes the restitution payments from the General Revenue Fund could range from \$0 to Unknown per fiscal year.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$1,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

ASSUMPTION (continued)

Officials from the Missouri Gaming Commission, Missouri Lottery, Department of Conservation, Office of Prosecution Services, Office of the State Public Defender, City of St. Louis, Boone County Sheriff's Department, Columbia Police Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, Kansas City Police Department, St. Louis County Police Department, and the St. Louis Metropolitan Police Department did not respond to Oversight's request for fiscal impact.

This proposal could increase Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE FUND			
<u>Savings</u> – Reduced appropriations to State School Moneys Fund	\$0	Unknown	Unknown
<u>Costs</u> – Office of State Courts Administrator			
Increased workload	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Costs</u> – Department of Revenue (DOR)			
Personal Service (1 FTE)	(\$19,639)	(\$24,156)	(\$24,760)
Fringe Benefits	(\$8,653)	(\$10,643)	(\$10,909)
Equipment and Expense	<u>(\$9,262)</u>	<u>(\$3,950)</u>	<u>(\$3,950)</u>
<u>Total Costs</u> – DOR	(\$37,554)	(\$38,749)	(\$39,619)
<u>Costs</u> – Department of Public Safety			
Restitution	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$237,554)</u>	<u>(More than \$238,749) to Unknown</u>	<u>(More than \$239,619) to Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
 STATE SCHOOL MONEYS FUND			
<u>Savings</u> – Reduced distributions to local school districts	\$0	Unknown	Unknown
<u>Losses</u> – Reduced appropriations from General Revenue Fund	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
 ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	 <u>\$0</u>	 <u>\$0</u>	 <u>\$0</u>
 DNA PROFILING ANALYSIS FUND			
<u>Revenues</u> – State Treasurer’s Office Court fees	\$576,922	\$702,124	\$702,124
<u>Costs</u> – Department of Public Safety Distributions to crime laboratories	<u>(\$576,922)</u>	<u>(\$702,124)</u>	<u>(\$702,124)</u>
 ESTIMATED NET EFFECT ON DNA PROFILING ANALYSIS FUND	 <u>\$0</u>	 <u>\$0</u>	 <u>\$0</u>

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
HIGHWAY FUND			
<u>Revenues</u> – Department of Revenue			
Reinstatement fees	<u>\$60,833</u>	<u>\$73,001</u>	<u>\$73,001</u>
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>\$60,833</u>	<u>\$73,001</u>	<u>\$73,001</u>
CRIMINAL RECORDS FUND			
<u>Revenues</u> – Missouri State Highway Patrol			
Fees from record checks	<u>\$2,818,333</u>	<u>\$3,985,000</u>	<u>\$4,685,000</u>
ESTIMATED NET EFFECT ON CRIMINAL RECORDS FUND	<u>\$2,818,333</u>	<u>\$3,985,000</u>	<u>\$4,685,000</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – Cities			
Reinstatement Fees	\$12,167	\$14,600	\$14,600
<u>Revenues</u> – Counties			
Reinstatement Fees	\$8,111	\$9,734	\$9,734
<u>Revenues</u> – Crime Laboratories			
Distributions from DNA Profiling Analysis Fund	\$576,922	\$702,124	\$702,124
<u>Revenues</u> – School Districts			
Income from fines	Unknown	Unknown	Unknown
<u>Costs</u> – Crime Laboratories			
Implementation of DNA Profiling System	(\$576,922)	(\$702,124)	(\$702,124)
<u>Losses</u> – School Districts			
Reduced distributions from State School Moneys Fund	\$0	(Unknown)	(Unknown)
<u>Costs</u> – School Districts			
Background/fingerprint requests	(\$354,070)	(\$428,131)	(\$502,192)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(\$333,792) to Unknown</u>	<u>(\$404,797)</u>	<u>(\$477,858)</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 changes the laws regarding crime prevention. In its main provisions, the proposal:

1. Adds any moving violation, as defined by Section 302.010, RSMo, to the list of infractions for which a court may order payment to the county law enforcement restitution fund (§50.565);
2. Defines “central repository” and “forensic DNA analysis” and allows a person determined to be actually innocent of a crime to receive \$50 for each day of post-conviction incarceration and an automatic expungement of any records concerning the crime for which the person was innocent, and makes other changes to DNA profiling system (§§650.050, 650.055, 650.056, 650.057, 650.058, 650.100);
3. Changes the expiration date on criminal court surcharges from August 28, 2006, to August 28, 2013 (§488.5050);
4. Increases the penalty for the crimes of enticement of a child and attempt to commit enticement of a child to a term of imprisonment of no less than five years and no more than 30 years. Any person convicted of these crimes will not be eligible for parole, probation, conditional release, or suspended imposition of sentence for five years. Currently, enticement of a child is a class C felony, and attempt to commit enticement of a child is a class D felony (§566.151);
5. Establishes procedures for search warrants where notification of the existence of the search warrant causes an adverse result including danger to the life or physical safety of an individual, flight from prosecution, the destruction or tampering with evidence, the intimidation of witnesses, or serious jeopardy to an investigation. Specifies that records sought under the search warrant be produced within five business days of receipt. Requires a showing of good cause by a foreign corporation that an extension of time will not cause an adverse result. Specifies that any attempt made to quash the warrant must be made in the court that issues the warrant within the time required for production of records. Requires Missouri corporations providing electronic communication services, when served with a warrant from another state, to produce records pertaining to customer identification, data stored by or on behalf of the customer, the customer’s usage of those services, or the destination or content of the communications as if the warrant had been issued by a Missouri court. Gives immunity to Missouri corporations providing records sought under a search warrant as specified in the substitute (§542.283);

DESCRIPTION (continued)

6. Creates the crime of disarming a peace or correctional officer if a person intentionally removes from the peace or correctional officer or deprives the peace or correctional officer the use of his or her firearm or other deadly weapon while the officer is acting within the scope of his or her official duties. The crime, a class C felony, does not include situations in which the person does not know or could not reasonably have known that the person was a peace or correctional officer or if the officer was engaged in felonious conduct at the time of the disarmament (§575.153);
7. Requires a photograph to be taken of an incarcerated individual upon release and made available to the victim at the victim's request. The proposal also allows victims to be represented by an appointed person instead of a personal appearance during parole and probation revocation hearings for the defendant. The victim's appointee who honors any subpoena to testify in or attend a criminal proceeding is protected from discharge by any employer or from using vacation, personal, or sick leave to attend any criminal proceeding (§§217.439, 595.209);
8. Authorizes access to official court records to victims of offenses against the family found in Chapters 566 and 568 to use in his or her own judicial proceedings. Currently, access to official court records for persons arrested and charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended is limited to law enforcement agencies, child care agencies, residential care facilities, and skilled nursing facilities;
9. Revises the definition of "intoxication-related traffic offense" to include any offense committed in another state or any federal or military offense which, if committed in Missouri, would be considered an intoxication-related traffic offense. The proposal also specifies that a person may be considered an aggravated or chronic offender if he or she has committed any offense in another state or any federal or military offense which, if committed in Missouri, would be considered an intoxication-related traffic offense (§577.023);
10. Authorizes the State Highway Patrol to conduct background checks on gubernatorial appointees who are subject to Senate confirmation. Information received by the patrol must be kept confidential and cannot be disclosed to anyone except the Governor or members of the Governor's staff as necessary to determine the appointee's qualifications (§43.547);

DESCRIPTION (continued)

11. Authorizes state agencies to conduct criminal background checks on certain applicants and employees. The applicant or employee must submit a set of fingerprints to the patrol for investigation purposes. All records related to the criminal history of the applicant or employee will be made available to the requesting state agency (§43.546);
12. Specifies that a prosecution is commenced for a misdemeanor or infraction when the information is filed. A prosecution for a felony is commenced when the complaint is filed (§566.036);
13. Authorizes the prosecuting or circuit attorney to dismiss a complaint, information, or indictment without the consent of the court (§56.087);
14. Increases the penalty for the crime of making a false report from a class B misdemeanor to a class A misdemeanor (§575.080);
15. Expands the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the first, second, or third degree to include corrections officers (§§565.081, 565.082, 565.083);
16. Allows a party to file a written motion for disqualification of a judge within 10 days after discovering the ground for disqualification (§476.185);
17. Prohibits the use or possession of an alcohol beverage vaporizer. Any substance that has been approved by the federal Food and Drug Administration as an over-the-counter or therapeutic drug product administered by an authorized medical practitioner is exempt (§578.255);
18. Creates the crime of distribution of a controlled substance near a park when a person unlawfully distributes or delivers a controlled substance to another individual within 1,000 feet of a public, private, state, county, or municipal park, a class A felony (§195.217);
19. Allows any sheriff or jailer to refuse to accept or incarcerate any prisoner from other officers or constables if they deem the prisoner to be medically unfit for confinement (§221.040);

DESCRIPTION (continued)

20. Allows any offender to refuse parole that is conditioned on the performance of free work. Any county, city, person, organization, agency, or its employee who is charged with the supervision of free work or who benefits from its performance will be immune from any cause of action arising from his or her supervision of performance, except for an intentional tort or gross negligence (§217.690);
21. Eliminates the provision of law which permits a judgment to be entered against the prosecutor for the trial costs if the defendant is acquitted of the prosecution (§545.050);
22. Changes fees for criminal background checks. Currently, an entity making a request for criminal history record information that is not based on a fingerprint search must pay a fee of not more than \$5 per request. Under this section, an entity cannot be made to pay more than \$9 dollars for such a request. However, after January 1, 2007, the central repository of the Highway Patrol may increase the fee by not more than \$1 per year. Under no circumstances shall the fee exceed \$15 dollars per request. Currently, an entity making a request for criminal history record information that is based on a fingerprint search must pay a fee of not more than \$20 per request. Under this section, an entity cannot be made to pay more than \$15 dollars for such a request (§43.530);
23. Allows a judge to order, as a condition of probation, the probationer to be vaccinated for Hepatitis A and B at his or her local health department with the costs to be paid by the probationer (Section 1);
24. Requires crime victims to be paid up to \$250 from the Crime Victims' Compensation Fund to replace clothing, bedding, or other personal items seized by law enforcement as evidence of a crime (§595.030);
25. Increases the penalties for the various classifications of identity theft crimes if the person has previously pled guilty to or been found guilty of an identity theft crime (§570.223);
26. Expands protection for the elderly against financial exploitation (§§192.925, 565.188);
27. Allows a judge to order the defendant in a municipal or circuit criminal case to pay costs as determined in Section 488.012 (§479.260).

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

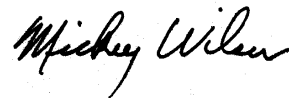
SOURCES OF INFORMATION

Office of the Attorney General
Department of Agriculture
Office of the Governor
Coordinating Board for Higher Education
Office of Administration
 – Administrative Hearing Commission
Office of State Courts Administrator
Department of Economic Development
Department of Elementary and Secondary Education
Department of Transportation
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety
 – Missouri State Highway Patrol
 – Director's Office
Department of Insurance
Missouri House of Representatives
Office of the Lieutenant Governor
State Auditor's Office
Missouri Senate
Office of the Secretary of State
State Treasurer's Office
Springfield Police Department

L.R. No. 3590-03
Bill No. HCS for HB 1316
Page 17 of 17
April 3, 2006

NOT RESPONDING

Missouri Gaming Commission, Missouri Lottery, Department of Conservation, Office of Prosecution Services, Office of the State Public Defender, City of St. Louis, Boone County Sheriff's Department, Columbia Police Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, Kansas City Police Department, St. Louis County Police Department, and the St. Louis Metropolitan Police Department



Mickey Wilson, CPA
Director
April 3, 2006