

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0855-02
Bill No.: HCS for HBs 235, 171, 237, 238, & 292
Subject: Courts; Judges; Science and Technology
Type: Original
Date: February 20, 2009

Bill Summary: The proposal modifies various provisions relating to the courts.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(\$1,469,913)	(\$2,218,307)	(\$2,915,550)
Total Estimated Net Effect on General Revenue Fund	(\$1,469,913)	(\$2,218,307)	(\$2,915,550)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Statewide Court Automation	\$83,333	\$100,000	\$100,000
Technology	\$58,625	\$166,750	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$141,958	\$266,750	\$100,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	26.5	26.5	26.5
Total Estimated Net Effect on FTE	26.5	26.5	26.5

☒ 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 2010	FY 2011	FY 2012
Local Government	(\$16,667)	(\$20,000)	(\$20,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Governor, Department of Economic Development, Department of Transportation, Department of Insurance, Financial Institutions, and Professional Registration, Department of Revenue, and the Department of Public Safety – Missouri State Highway Patrol** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of Prosecution Services** assume the proposal would have no measurable fiscal impact the Office of Prosecution Services or county prosecutors.

Officials from the **Office of the Secretary of State – Administrative Rules Division (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 \$2,500. 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.

Sections 210.841, 452.305, 452.310, and 452.312 – Social Security Numbers on Records

Officials from the **Department of Social Services – Family Support Division (DOS – FSD)** assume the amendment to section 210.841 removes any requirement for the Social Security numbers of the parties to be recorded in the records relating to a paternity action. 42 USC, section 666(a)(13) requires that the Social Security number of any individual who is subject to a paternity determination be placed in the records relating to the matter. 42 USC, section 666(a)(13) states:

- (13) Recording of Social Security numbers in certain family matters. Procedures requiring that the Social Security number of:
 - (A) any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application;

ASSUMPTION (continued)

- (B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and
- (C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a state allows the use of a number other than the Social Security number to be used on the face of the document while the Social Security number is kept on file at the agency, the state shall so advise any applicants.

This proposed legislation is inconsistent with federal law and would likely result in the federal government finding that Missouri is out of compliance with Title IV-D State Plan requirements. Failure to comply with Title IV-D State Plan requirements will result in a total loss of federal funding including incentives. This amount for federal fiscal year 2008 was approximately \$63 million. Any loss of federal funding would have to be replaced by General Revenue. A federally approved IV-D State Plan is also a requirement to receive the TANF (Temporary Assistance for Needy Families) block grant. So, a disapproved IV-D State Plan could also jeopardize federal TANF funding.

The amendments to sections 452.305, 452.310, and 452.312 remove the requirements for the Social Security numbers and other identifying information of the parties to be recorded in the related petitions and orders. The amendments provide that Social Security numbers and other identifying information of the parties will instead be recorded in a family court information sheet. The amended law provides that the court may release information contained in the family court information sheets for good cause shown. DOS – FSD and other state IV-D agencies have statutory authority to receive Social Security numbers under 454.440 and 454.412, RSMo. DOS – FSD and other state IV-D agencies also have current authority to receive the other identifying information referenced in these sections of the law. However, it is unclear to the DOS – FSD whether it is the intent of the proposed legislation to prohibit the division's access to data recorded on the family court information sheets. If the legislation serves to limit the division's access to information recorded on the information sheets, it would adversely affect the division's ability to determine such information and, therefore, impact the division's ability to effectively provide support enforcement services. The fiscal impact for this change is unknown.

ASSUMPTION (continued)

42 USC, Section 666(f) requires states to have in effect the Uniform Interstate Family Support Act as approved by the American Bar Association on February 9, 1993, and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform State Laws. 42 USC, Section 666(f) states:

(f) Uniform Interstate Family Support Act

In order to satisfy section 654(20)(A) of this title, on and after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform State Laws.

The proposed amendments to sections 454.905 and 454.951, RSMo are inconsistent with the Uniform Interstate Family Support Act and would likely result in the federal government finding that Missouri is out of compliance with Title IV-D State Plan requirements. Failure to comply with Title IV-D State Plan requirements will result in a total loss of federal funding including incentives. This amount for federal fiscal year 2008 was approximately \$63 million. Any loss of federal funding would have to be replaced by General Revenue. A federally approved IV-D State Plan is also a requirement to receive the TANF block grant. So, a disapproved IV-D State Plan could also jeopardize federal TANF funding.

In summary, DOS – DFS assumes the proposal would result in a loss of federal funds in the amount of \$63,000,000. This loss would be replaced by General Revenue funds in the amount of \$63,000,000.

Oversight assumes the intent of the legislation is not to make the Department of Social Services – Division of Family Services (DOS – DFS) out of compliance with federal Title IV-D State Plan requirements. DOS – DFS assumption that the proposal would jeopardize federal funding is speculative. Therefore, Oversight is reflecting no fiscal impact to the DOS – DFS for this fiscal note. If DOS – DFS is found to be out of compliance with Title IV-D State Plan requirements, then the proposal could result in a loss of federal funding.

ASSUMPTION (continued)

Various Sections in Chapters 301 and 307 – Reduces Penalty to Infraction

Officials from the **Office of the State Public Defender (SPD)** assume the proposal will provide very minimal relief for the State Public Defender System. In Fiscal Year, the SPD provided representation in just 54 cases (from a total of 85,405) which will be reduced to infractions if the legislation should prevail.

Oversight assumes the savings to the Office of the State Public Defender (SPD) would be a minimal amount; therefore, Oversight has reflected no fiscal impact to the SPD.

Section 475.375 – Removal of Disqualification to Purchase Firearm

Officials from the **Office of the Attorney General (AGO)** assume the proposed changes to Section 475.375 allow a person previously adjudged mentally incompetent or involuntarily committed to petition for removal of firearms restrictions, and assigns the AGO the duty to defend in various counties of the State. The number of such cases is unknown, but AGO assumes it would require 0.5 FTE Assistant Attorney General II (at \$37,500 per FTE) in light of the additional travel requirements. AGO assumes the cost to be approximately \$33,000 in FY10 and approximately \$36,000 in subsequent years.

Officials from the **Department of Mental Health (DMH)** assume the modifications to Section 475.375 may require DMH, as well as other entities, to participate in the civil petition process. The fiscal impact is unknown.

Oversight assumes the Department of Mental Health (DMH) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the DMH would be reflected in future budget requests.

ASSUMPTION (continued)

Section 476.055 – Statewide Court Automation Fund

Oversight assumes the proposed legislation would extend the September 1, 2009, expiration date of the Statewide Court Automation Fund and the statewide court automation fund fees until September 1, 2019. The balances in the fund for fiscal years 2006, 2007, and 2008 are as follows:

**Statewide Court Automation Fund (0270)
from
Fund Activity Report**

Fiscal Year	Beginning Balance	Receipts	Disbursements/JV's	Transfers/IAB	Ending Balance
2008	\$523,044.68	\$5,684,275.66	(\$4,176,715.19)	(\$1,286,070.86)	\$744,534.29
2007	\$573,953.71	\$5,334,765.18	(\$4,608,026.49)	(\$777,647.72)	\$523,044.68
2006	\$407,097.67	\$4,753,205.91	(\$3,449,035.10)	(\$1,137,311.77)	\$573,953.71
Avg	\$501,365.35	\$5,257,415.58	(\$4,077,925.59)	(\$1,067,010.12)	\$613,844.23

Oversight assumes the proposal would result in continued revenues and costs to the Statewide Court Automation Fund in fiscal years 2010, 2011, and 2012. Based on the data from the past three fiscal years, Oversight assumes the proposal would result in average revenues of approximately \$5,300,000, costs of approximately \$4,100,000, and transfers of approximately (\$1,100,000), resulting in a net increase to the Statewide Court Automation Fund of approximately \$100,000 per fiscal year. FY 2010 amounts have been adjusted to reflect 10 months.

Section 478.325 – Convert State-Funded Commissioners to Associate Circuit Judges

Officials from the **Office of State Courts Administrator (CTS)** assume Section 478.325, RSMo, would convert all state-funded commissioners to associate circuit judges. It is assumed this language would apply only to drug and family court commissioners and not probate commissioners. The total number of FY 09 state-paid court commissioner positions is as follows: seven family court commissioners and nine drug court commissioners.

ASSUMPTION (continued)

The compensation for a court commissioner is the same as an associate circuit judge; however, each associate circuit judge receives a court clerk III.

For each conversion of a state-paid court commissioner to an associate circuit judge, the cost is as follows:

Court Clerk III:	\$31,176 per year, plus fringes
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CTS assumes the cost for the 16 FTE Court Clerks III to be approximately \$650,000 in FY 2010 and approximately \$800,000 in subsequent fiscal years.

Sections 478.464 through 478.713 – New Associate Circuit Judge Positions

Officials from the **Office of State Courts Administrator (CTS)** assume Sections 478.464 through 478.713, RSMo, would add a new associate circuit position to the 16th, 20th, 31st, 38th, and 40th Circuits.

For each associate circuit judge, the cost is as follows:

Associate Circuit Court Judge:	\$109,366 per year, plus fringes
Court Clerk III:	\$31,176 per year, plus fringes

CTS assumes the cost for the 5 FTE Associate Circuit Judges and 5 FTE Court Clerks III to be approximately \$1,000,000 in FY 2010 and approximately \$1,300,000 in subsequent fiscal years.

Oversight assumes counties would incur office expenses in the amount of \$4,000 per fiscal year for each Associate Circuit Judge position, or a total of \$20,000 per fiscal year. The expenses for FY 2010 have been adjusted to reflect 10 months.

Various Sections – Corporations and LLC Filings

Officials from the **Office of the Secretary of State (SOS)** assume the proposal will allow the SOS to charge an additional fee for expedited filings; it will allow corporations to change the due date of their corporate registration report; it will allow corporations to elect to file their corporate registration report biennially; it will reduce the fee for LLCs organizing online; and it will extend the amount of time a corporation has from thirty days to ninety days before the SOS is required to administratively dissolve a corporation for failure to file their registration report.

ASSUMPTION (continued)

The proposal would require the SOS to notify limited liability companies and limited partnerships 30 days in advance of the expiration of the LLC or the partnership's duration and allow the LLC or partnership to extend the duration. If the duration is not extended by the LLC or partnership, the SOS will notify the LLC or partnership it has 60 days to extend before being administratively dissolved by the SOS. Upon dissolution, the SOS must notify the LLC or partnership it has been administratively dissolved.

SOS estimates the fiscal impact of the proposal as follows:

Expedited fees: SOS Estimates 2 expedited requests per week at \$200 per filing.

Reduction of online filing fees for LLCs: SOS assumes that 50% of the 30,000 LLCs formed each year will file online (15,000 x \$55).

Option to change the due date of the corporate registration report: SOS assumes that 30% of the 115,200 general business corporations will opt to change their due date; of those, 50% will change in FY 10 and 50% will change in FY 11.

Option for a biennial corporate registration report: SOS assumes that 50% of the 115,200 general business and 50% of the 36,000 non-profit corporations will elect to file biennially.

Corporations formed in odd numbered years can opt biennial filing in an odd numbered filing year; corporations formed in an even numbered year can opt biennial filing in an even numbered filing year. SOS assumes that 50% will opt to file biennially, with 75% of the general business and 55% of the non-profit filing online; the remainder will file paper reports. The change will occur over two fiscal years, with 76% of the general business corporations that change changing in FY 10 and 24% changing in FY 11. For non-profits, the first year change will occur in FY 11.

Expenses for FY 10 are for one time contract programming with the KB system vendor. FY 11 and FY 12 cost avoidance is in reduced postage and printing because of biennial filing.

There are just over 225,000 active limited liability companies and 16,000 limited partnerships registered with the SOS. Since most LLCs and limited partnerships have a duration of perpetual or an average of 50 years, the number of companies and partnerships affected by this legislation, while unknown, is assumed to be minimal. Therefore, the number of notices sent by the SOS will also be minimal; the SOS will absorb the fiscal impact of this part of the legislation.

ASSUMPTION (continued)

In summary, SOS estimates the fiscal impact to the General Revenue fund to be increased revenues of approximately \$240,000 in FY10, and losses of approximately \$130,000 in FY11 and \$770,000 in FY12. In addition, SOS assumes a net increase in revenues to the Technology Fund of approximately \$59,000 in FY10 and \$170,000 in FY11.

Officials from the Department of Health and Senior Services did not respond to Oversight's request for fiscal impact.

The proposed legislation could directly affect Total State Revenue (TSR). TSR will increase in FY 10 because of corporations electing to pay an additional fee to change the due date of their corporate registration report and electing to file their report biennially rather than annually; this increase will offset the decrease in revenue associated with a reduction in the online filing fee for Limited Liability Companies (LLC). In FY 11 and FY 12 there will be a decrease in TSR because the reduction in filing fees for LLCs will exceed the increase in fees associated with biennial filing and the change of the corporate registration report due date.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Revenues</u> – Office of the Secretary of State			
Corporation/LLC/LP filing fees	\$240,606	\$0	\$0
<u>Savings</u> – Office of the Secretary of State			
Reduced mailers and postage	\$0	\$15,287	\$15,800
<u>Losses</u> – Office of the Secretary of State			
Corporation/LLC/LP filing fees	\$0	(\$142,056)	(\$783,400)

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND (continued)			
<u>Costs – Office of the Attorney General</u> (\$475.375)			
Personal Service	(\$16,094)	(\$19,892)	(\$20,489)
Fringe Benefits	(\$7,827)	(\$9,673)	(\$9,964)
Equipment and Expense	<u>(\$8,888)</u>	<u>(\$6,026)</u>	<u>(\$6,207)</u>
<u>Total Costs – AGO</u>	(\$32,809)	(\$35,591)	(\$36,660)
FTE Change – AGO	0.5 FTE	0.5 FTE	0.5 FTE
<u>Costs – Office of State Courts</u> Administrator (CTS) (\$478.325)			
Personal Service	(\$428,150)	(\$529,194)	(\$545,070)
Fringe Benefits	(\$208,209)	(\$257,347)	(\$265,068)
Equipment and Expense	<u>(\$11,664)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs – CTS (\$478.325)</u>	(\$648,023)	(\$786,541)	(\$810,138)
FTE Change – CTS (\$478.325)	16 FTE	16 FTE	16 FTE
<u>Costs – Office of State Courts</u> Administrator (§§478.464 – 478.713)			
Personal Service	(\$603,159)	(\$745,505)	(\$767,870)
Fringe Benefits	(\$415,558)	(\$523,901)	(\$533,282)
Equipment and Expense	<u>(\$10,970)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs – CTS (§§478.464 – 478.713)</u>	<u>(\$1,029,687)</u>	<u>(\$1,269,406)</u>	<u>(\$1,301,152)</u>
FTE Change – CTS (§§478.464 – 478.713)	10 FTE	10 FTE	10 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$1,469,913)</u>	<u>(\$2,218,307)</u>	<u>(\$2,915,550)</u>
Estimated Net FTE Change for General Revenue Fund	26.5 FTE	26.5 FTE	26.5 FTE

FISCAL IMPACT - State Government
 (continued)

FY 2010
 (10 Mo.)

FY 2011

FY 2012

**STATEWIDE COURT
 AUTOMATION FUND**

Revenues – Office of State Courts
 Administrator (§476.055)

Continued collection of state court automation fund fees	\$4,416,667	\$5,300,000	\$5,300,000
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Costs – Office of State Courts
 Administrator (§476.055)

Statewide court automation system	(\$3,416,667)	(\$4,100,000)	(\$4,100,000)
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Transfers – Office of State Courts
 Administrator (§476.055)

Net of transfers in, transfers out, and IAB transactions	<u>(\$916,667)</u>	<u>(\$1,100,000)</u>	<u>(\$1,100,000)</u>
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**ESTIMATED NET EFFECT ON
 STATEWIDE COURT
 AUTOMATION FUND**

<u>\$83,333</u>	<u>\$100,000</u>	<u>\$100,000</u>
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TECHNOLOGY FUND

Revenues – Office of the Secretary of
 State

Corporation/LLC/LP fees	\$196,125	\$166,750	\$0
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Costs – Office of the Secretary of State
 Contract programming (one-time)

<u>(\$137,500)</u>	<u>\$0</u>	<u>\$0</u>
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**ESTIMATED NET EFFECT ON
 TECHNOLOGY FUND**

<u>\$58,625</u>	<u>\$166,780</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
LOCAL GOVERNMENT			
<u>Costs – Various Counties (§§478.464 – 478.713)</u>			
Office expenses	<u>(\$16,667)</u>	<u>(\$20,000)</u>	<u>(\$20,000)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>(\$16,667)</u>	<u>(\$20,000)</u>	<u>(\$20,000)</u>

FISCAL IMPACT - Small Business

This legislation could have a positive impact on small business because it will make it easier for a limited liability company (LLC) and a limited partnership to continue the existing LLC or limited partnership rather than create a new LLC or partnership if the existing company or partnership fails to extend its duration.

FISCAL DESCRIPTION

Section 475.375 – Removal of Disqualification to Purchase Firearm

The proposed legislation authorizes a petition process for an individual over the age of eighteen who has been judged incompetent to purchase, possess, or transfer a firearm when the individual no longer suffers from the condition that resulted in the individual's incapacity.

Section 476.055 – Statewide Court Automation Fund

The proposed legislation extends the expiration date for the Statewide Court Automation Fund from September 1, 2009 to September 1, 2019.

Section 478.325 – Convert State-Funded Commissioners to Associate Circuit Judges

The proposal would convert all state-funded commissioners to associate circuit judges.

FISCAL DESCRIPTION (continued)

Sections 478.464 through 478.713 – New Associate Circuit Judge Positions

The proposal would add a new associate circuit judge position to the 16th, 20th, 31st, 38th, and 40th Circuits.

Various Sections – Corporations and LLC Filings

A small business organizing as a limited liability company and filing online will save \$55 per business. There will be a fee of \$20 for each corporation that opts to change the month its corporate registration report is due; it is assumed that this cost will be more than offset in cost savings/avoidance by completing this requirement at the same time other business and tax filings are completed.

A corporation electing to file its corporate registration report biennially rather than annually will presumably, over a two year period, expend one half the cost of preparing the report. A typical business will spend approximately 15 minutes each year preparing and filing its registration report; biennial filing would save an estimated 8,000 hours by business filers every year.

Beginning January 1, 2010, the proposal allows a corporation to file a corporate registration report on a biennial basis and to change the month of its corporate registration report by designating the desired month and paying an additional \$20 fee. Corporations incorporated in an even-numbered year may only file a report in an even-numbered year, and corporations incorporated in an odd-numbered year may only file a report in odd-numbered years. The fee for filing the biennial report will be \$80 if filed in a written format and \$30 if in an electronic format. Any corporation filing a biennial report must maintain the registration for two years, but may choose to file an annual registration in subsequent years. The bill also allows the Secretary of State to collect an additional \$10 fee for each biennial corporate report to be credited to the Secretary of State's Technology Trust Fund Account.

The Secretary of State is authorized to charge a \$45 fee for a corporate filing of the original articles of organization in an electronic format.

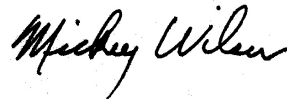
Currently, the Secretary of State may commence a proceeding to dissolve a corporation if it fails to deliver its corporate registration report to the Secretary of State within 30 days after it is due. The bill changes the deadline to within 90 days.

Section 475.375 of the legislation is in response to HR 2640 signed by President Bush in January 2008.

This legislation 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 Governor
Office of State Courts Administrator
Department of Economic Development
Department of Transportation
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Revenue
Department of Social Services
Department of Public Safety
 – Missouri State Highway Patrol
Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender



Mickey Wilson, CPA
Director
February 20, 2009