

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1068-01
Bill No.: HB 362
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies
Type: Original
Date: February 23, 2009

Bill Summary: The proposal allows any local governing agency to establish a work for restitution program and requires certain nonviolent offenders to participate in and complete the program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 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
Total Estimated Net Effect on FTE	0	0	0

☐ 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	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue, Department of Social Services, Office of the State Treasurer, City of Centralia, City of Kansas City, and the City of West Plains** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume they are unable to provide any estimate of costs to the courts. CTS would anticipate an increase in court workload due to revocations for failure to pay, but has no way of quantifying that increase.

Officials from the **Department of Corrections (DOC)** assume, pursuant to this legislation, the DOC must:

- Write the requirement of restitution as a condition of supervision;
- Ensure that the court and board requires this as a condition of supervision. This may not apply to conditional release;
- Ensure that fees collected are remitted to the work for restitution fund within 60 days of receipt;
- Establish rules and program regulations for the program;
- Ensure releases are coordinated with the restitution program and that the offender is admitted to the program within 7 days of release; and
- Ensure that the offender is in the program within 30 days.

DOC assumes there will be a cost, associated with tracking the work for restitution providers, incurred by the agency, including liaison time. Additional cost will be associated with the monitoring of the “written condition” associated with the work for restitution provider, including documentation through Violation Reports and Case Summary Reports. The DOC will be required to develop rules/procedure relative to the use of work for restitution providers, including dispute resolution procedures when there are multiple work for restitution entities within the same jurisdiction. There may be an impact on revocation rates if time spent on work for restitution hampers other treatment efforts.

The offender may refuse the program but it is a requirement for supervision. DOC states it is not clear if this means that the offender cannot receive probation or parole.

ASSUMPTION (continued)

The proposal states that for parolees the board has the right and shall collect ordered restitution. In some cases the restitution is not ordered prior to incarceration.

The costs to the state are in several forms: The offender cannot be released from supervision until the restitution and fee is paid. This is an addendum to the current law.

There could be a cost to the victims: It would be assumed that the cost of the program would be collected as restitution is collected. This means that if the offender is revoked while paying restitution, the victim would receive only 50% of what they would have received under the current system. Probation and parole is now collecting full restitution on 90 +% of the cases that are discharged. Nonpayment in discharged cases is normally due to death of the offender or the court waving the restitution. If the offender has not paid restitution, the court can continue the felony probation to 5 years or revoke the probation for willful failure to pay. The most frequent reasons restitution is not made are absconding from supervision or being revoked to the Division of Adult Institutions.

Another cost is the increased potential for revocation. The requirement is that they work 12 hours a day and 6 days a week coupled with the requirement that they receive minimum wage. Even if the offender is working at another job this limits treatment and family interaction. It is believed that this approach would increase the absconder and revocation rates. Keeping offenders on supervision for longer periods of time increases the probability of revocation. Given the cost of incarceration these costs can mount quickly. The department would also need to have a separate program for offenders not eligible for the program who must pay restitution.

Currently, the DOC cannot predict the number of new commitments which may result from the creation 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 direct offender cost either through incarceration (FY08 average of \$15.64 per offender, per day or an annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender).

Supervision by the DOC through incarceration or probation would result in additional costs and the fiscal impact due to passage of this bill is Unknown.

ASSUMPTION (continued)

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 \$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.

Officials from the **Cass County** assume there would be some cost to start, facilitate, and maintain the program.

Officials from the **Clinton County** assume there may be some savings in jail board costs and there may be increased costs for staff.

Officials from the **St. Louis County Department of Justice Services** assume if they participated in the program, the proposal would result in the need for additional staff to operate it. Staff would be needed to monitor community service participation, documentation of hours, victim notification, and accounting duties, as required.

Oversight assumes cities and counties would incur increased administrative costs to implement the provisions in the proposal. Oversight assumes the costs to be Unknown.

Oversight assumes the Work for Restitution Fund to be a local fund, with Unknown revenues equaling Unknown payments for restitution and/or rehabilitation.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Costs</u> – Office of State Courts Administrator			
Increased workload	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> – Department of Corrections			
Administrative costs	(Unknown)	(Unknown)	(Unknown)
Incarceration/probation costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2010 (10 Mo.)	 FY 2011	 FY 2012
LOCAL GOVERNMENT			
<u>Revenues</u> – Work for Restitution Fund			
Restitution fee collections	Unknown	Unknown	Unknown
<u>Costs</u> – Work for Restitution Fund			
Restitution and rehabilitation payments	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> – Cities and Counties			
Administrative Costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

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

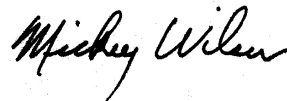
FISCAL DESCRIPTION

The proposed legislation establishes the work for restitution program to be administered by the local city, county, or state. Courts are required to order nonviolent offenders to pay restitution to their crime victims as a condition of probation. Offenders in the work for restitution program would be required to work twelve hours per day, six days per week, with eight hours for the offender's own income and four hours for restitution, until the total amount of restitution and rehabilitation fees have been paid.

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 Revenue
Department of Social Services
Office of the Secretary of State
Office of the State Treasurer
City of Kansas City
City of West Plains
Cass County
Clinton County
St. Louis County Department of Justice Services



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