

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5274-01
Bill No.: HB 1556
Subject: Probation and Parole; Crimes and Punishment; Courts
Type: Original
Date: January 10, 2018

Bill Summary: This 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 2019	FY 2020	FY 2021
General Revenue Fund	(\$116,061)	(\$131,670)	(\$133,732)
Total Estimated Net Effect on General Revenue	(\$116,061)	(\$131,670)	(\$133,732)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government*	\$0	\$0	\$0

*Distributions in revenue (expenditures) net to zero.

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Corrections (DOC)** assume in 2017 a total of 3,109 in-state non-dangerous parolees and probationers were required to pay restitution. Of these, 1,017 failed to completely pay off the restitution at the time of discharge from field supervision (32.7%). If this bill is enacted, approximately 582 probationers and 435 parolees would be assigned to the restitution program and would require additional time on field supervision. In order to determine the impact to the Department of Corrections (DOC), several assumptions are made.

1. The offenders will earn the federal minimum wage at \$7.25 per hour (maximum of \$174/week to pay towards restitution).
2. Each year 2% of offenders will not complete payment as scheduled and will be revoked.
3. Ninety-eight percent of offenders will fulfill all monetary obligations in the shortest period of time possible (4 hours/day for 6 days per week).
4. None of the discharged persons in FY17 were chronic offenders or would refuse the restitution program offered by this legislation.
5. Restitution programs are in all jurisdictions.
6. Restitution programs are fully funded.

In Tables 1 and 2 are the calculations for the additional time needed under field supervision for all 1,017 offenders, which are calculated using the average amount owed to pay the restitution amount (the rehabilitation fee is not included in the calculations in the tables). To calculate the impact to the incarcerated population, it is estimated that the offenders revoked from the restitution program will serve one year in prison (the average for parole technical violators). To calculate the impact to probation is complicated by the multiple lengths of time spans needed to pay off the average restitution. Therefore, people-years are calculated for each division of monetary obligation as follows: Discharges x Average-Time-to-Pay-Restitution / 52 weeks/year.

The impact of this legislation to DOC is an increase to the prison and field population. In each year, DOC will extend the parole and probation supervision for 1,017 offenders until restitution is paid. Assuming full funding for the restitution program and existence of statewide availability of restitution programs, the conservative estimate of the full impact on DOC will be an increase of 11 persons in prison and 554 persons on supervision for payment of restitution. The increase will occur in the first year after enactment (FY19).

ASSUMPTION (continued)

Table 1. Estimate of the increase population to DOC for failure to pay the restitution if HB 1556 is enacted. n= 582 probationers

Victim RESTITUTION Payments Unpaid by **Probationers** Discharged in FY17

Restitution Costs *	Discharges	Average Outstanding Owed	Average Time in Probation to Pay Off Restitution	Yearly Increase in Probation from Payers
1. \$5000+	107	\$ 18,114	104.1 weeks	214.2 people-yr.
2. \$2000+	145	\$ 3,196	18.3 weeks	51.2 people-yr.
3. \$1000+	103	\$ 1,409	8.1 weeks	16.0 people-yr.
4. \$750+	34	\$ 861	4.9 weeks	3.2 people-yr.
5. \$500+	56	\$ 423	2.4 weeks	2.6 people-yr.
6. \$250+	68	\$ 359	1.5 weeks	1.9 people-yr.
7. <\$250	69	\$118	.7 weeks	.9 people-yr.
TOTAL	582			290 persons

* Restitution cost were capped at \$100,000.00 for 5 offenders because the amounts were outliers.

Table 2. Estimate of the increase population to DOC for failure to pay the restitution if HB 1556 is enacted. n= 435 parolees

Victim RESTITUTION Payments Unpaid by Parolees Discharged in FY17				
Restitution Costs *	Discharges	Average Outstanding Owed	Average Time in Probation to Pay Off Restitution	Yearly Increase in probation from the Payers
1. \$5000+	88	\$23,357	134.2 weeks	227.2 people-yr.
2. \$2000+	82	\$3,179	18.3 weeks	28.8 people-yr.
3. \$1000+	68	\$1,412	8.1 weeks	10.6 people-yr.
4. \$750+	33	\$852	4.9 weeks	3.1 people-yr.
5. \$500+	31	\$593	3.4 weeks	2.0 people-yr.
6. \$250+	66	\$347	2.0 weeks	2.5 people-yr.
7. <\$250	67	\$110	0.6 weeks	.8 people-yr.
TOTAL	435			275 persons

* Restitution cost were capped at \$100,000.00 for 7 offenders because the amounts were outliers.

ASSUMPTION (continued)

Table 3. The impact of FN 0836.01 requiring full payment of restitution before release from field supervision for selected offenders.

	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27	FY28
Admissions										
Incarceration	11	11	11	11	11	11	11	11	11	11
Parole	435	435	435	435	435	435	435	435	435	435
Probation	582	582	582	582	582	582	582	582	582	582
Population										
Incarceration	11	11	11	11	11	11	11	11	11	11
Parole	270	270	270	270	270	270	270	270	270	270
Probation	284	284	284	284	284	284	284	284	284	284
Impact										
Total Prison Population	11	11	11	11	11	11	11	11	11	11
Total Field Population	554	554	554	554	554	554	554	554	554	554
Total	565	565	565	565	565	565	565	565	565	565
P&P Officers +/-	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0

Citation

U. S. Department of Labor. (n.d.). Minimum wage.
<https://www.dol.gov/general/topic/wages/minimumwage>
 Retrieved December 14, 2017.

If this impact statement has changed from statements submitted in previous years, it is because the DOC has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

ASSUMPTION (continued)

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

The DOC cost of incarceration is \$17.003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

In summary, DOC assumes the following costs for this proposal (FY19 is for 10 months and FY20 and FY21 includes 2% inflation per year):

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Change in number of P&P Officers	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	11	(\$6,206)	(\$56,888)	554	1	(\$59,173)	(\$116,061)
Year 2	11	(\$6,206)	(\$69,631)	554	1	(\$62,039)	(\$131,670)
Year 3	11	(\$6,206)	(\$71,024)	554	1	(\$62,708)	(\$133,732)

	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
11 offenders to prison	\$ 56,888	\$ 69,631	\$ 71,024
Hire 1 FTE (P/P Officer II)			
to supervise 554 probation/parolees	<u>\$ 59,173</u>	<u>\$ 62,039</u>	<u>\$ 62,708</u>
Total Costs	\$116,061	\$131,670	\$133,732

Officials at **St. Louis County** assume this bill would not have a fiscal impact on the Family Court but it may have an impact on St. Louis County ("County"). At the present time, the Family Court of St. Louis County partners with a community based organization which provides the services and benefits of a work restitution program as described in the bill. While it seems to be clear that the organization is required to remit the collected fees to the "Work for Restitution Fund" as set forth in subsection 19 and 21, it is unclear whether or not there is an obligation of the County to provide staffing to ensure that the funding process is completed. If there is an obligation on behalf of the County, the County may require the services of a (part time or full time) employee(s) to oversee the process for both juvenile and adult offenders. However, because the number and type of staff required to administer the program is unknown, a reasonable cost

ASSUMPTION (continued)

estimate cannot be made at this time.

Officials at **Boone County** assume \$169,000 per year for two positions that would be necessary from this proposal.

Officials at the **City of Kansas City** assume no fiscal impact from this proposal.

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

Officials from the **Office of the Secretary of State (SOS)** state 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 fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials at the **Department of Revenue**, the **Office of the State Treasurer**, the **Department of Social Services** and the **Joint Committee on Administrative Rules** each assume no fiscal impact to their respective agencies from this proposal.

Officials from the following **counties**: Andrew, Atchison, Audrain, Barry, Benton, Bollinger, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Clinton, Cole, Cooper, Davies, Dekalb, Dent, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Moniteau, Monroe,

ASSUMPTION (continued)

Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Platte, Pulaski, Scott, St. Charles, St. Francois, Taney, Wayne, and Worth did not respond to **Oversight's** request for fiscal impact.

Officials from the following **cities**: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark City, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Peculiar, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
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GENERAL REVENUE FUND

<u>Costs</u> - DOC - additional offenders on field supervision of probation/parolees from work for restitution program	<u>(\$116,061)</u>	<u>(\$131,670)</u>	<u>(\$133,732)</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$116,061)</u>	<u>(\$131,670)</u>	<u>(\$133,732)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
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LOCAL POLITICAL SUBDIVISIONS

<u>Revenues</u> - Work for Restitution Fund - restitution fee collections	Unknown	Unknown	Unknown
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<u>Cost</u> - Work for Restitution Fund - restitution and rehabilitation payments	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill allows any local governing agency, as specified in the bill, to establish a work for restitution program and requires persons who have pled guilty or nolo contendere to or have been convicted of nonviolent offenses where restitution is a requirement of their probation to participate in and complete the program. The bill creates the Work for Restitution Fund. Moneys appropriated to the fund shall be used solely for the administration of the provisions of the bill.

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

Department of Corrections
St. Louis County
Boone County
Office of the Secretary of State
Office of the State Courts Administrator
Department of Revenue
Office of the State Treasurer
Department of Social Services
Joint Committee on Administrative Rules
City of Kansas City

Ross Strobe



Acting Director
January 10, 2018