

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6484-05
Bill No.: SS for SCS for HB 2562 with SA1, SA2, SA3, SA4, SSA1 to SA6, & SA7
Subject: Courts; Judges; Veterans; Criminal Procedure; Domestic Relations; Drugs and Controlled Substances; Drunk Driving/Boating; Children and Minors; Liability; Political Subdivisions; Attorneys
Type: Original
Date: May 15, 2018

Bill Summary: This proposal modifies provisions regarding nuisance actions in the City of Springfield, municipal courts, treatment courts, court reporter costs, guardian ad litem fees, sealing of civil judgements, and prosecutors serving as circuit attorneys.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Depending on fee change (if any)

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 16 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
Total Estimated Net Effect on FTE	0	0	0

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	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§§82.1025, 82.1027, 82.1028

Oversight notes this portion of the proposal adds the City of Springfield to the nuisance property laws. Officials at the City of Springfield indicated the proposal could have a positive fiscal impact.

§302.321, 302.341, 479.020, 479.353, 479.354, 479.360

In response to a previous version, officials at the **Department of Revenue** assumed the following:

§302.321.1&3 - Adds provisions for drivers that have been previously suspended pursuant to section 302.341, to now be charged under section 302.020 shall be deemed to not have a valid license.

§302.341.2 - The proposed legislation adds "Except as provided in subdivision (5) of section 479.535". The Department will process all suspensions received for Instate Failure to Appear on minor traffic violations and assumes the court will practice due diligence and only submit suspensions on drivers that meet this criteria.

§479.353(6) - The proposed legislation would allow courts to suspend for minor traffic violations for drivers that have failed to appear in court when summoned.

Administrative Impact

The proposed legislation allows drivers found to be driving while suspended because of an Instate Failure to Appear action, to now be convicted for "no valid license" instead of "driving while suspended". The Department may show an unknown decrease in point accumulation suspensions and/or revocations.

ASSUMPTION (continued)

The Department will process all suspensions received for Instate Failure to Appear on minor traffic violations and assumes the court will practice due diligence and only submit suspensions on drivers that meet this criteria. This will cause an increase in suspensions received by the Department.

A Revenue Processing Technician I (RPT I) can process 440 documents per day. The Department will absorb the increase of suspensions received with existing staff. If the volume of documents received is higher than anticipated, additional FTE's will be requested through the appropriation process.

To implement the proposed legislation, the Department will be required to:
Update procedures; and
Train employees

FY 2019 - Driver License Bureau

Administrative Analyst I	40 hrs. @ \$14.70 per hr.	= \$ 588
Management Analysis Spec II	40 hrs. @ \$20.57 per hr.	= \$ 823
Total Costs		<u>\$1,411</u>

The Department assumes it will be able to absorb the above listed costs. If multiple bills pass which require Department resources and updates, the Department could request additional FTE's and related equipment and expenses through the appropriation process.

Revenue Impact

The Department will have a decrease in point accumulation reinstatement fees of \$20 for each suspension or revocation no longer applied to a record, and will have an increase of Instate Failure to Appear suspensions, that also require a \$20 reinstatement fee. The increase in Instate Failure to Appear reinstatement fees should offset the loss in point accumulation reinstatement fees.

Any fees collected will be distributed 75% Highway Fund, 15% Cities, and 10% Counties.

ASSUMPTION (continued)

Officials at the **City of Kansas City** assume this legislation would not have a positive fiscal impact on the City.

In response to similar legislation from this year, Perfected SS for SCS for SB 553, officials at the **City of Springfield** assumed a potential positive impact to the City of more than \$300,000 annually. After the implementation of SB5 from the 2015 session, the money brought into the court decreased approximately \$370,000 annually over the last two years. This proposal would reverse the impact from SB5.

In response to similar legislation from this year, Perfected SS for SCS for SB 553, officials at the **City of Columbia** assumed a minimal fiscal impact to the City from this proposal.

In response to similar legislation from this year, Perfected SS for SCS for SB 553, officials at **St. Louis County**, the **Callaway County Commission** and **Boone County** each assumed no fiscal impact to their respective entities from this proposal.

§§208.151, 217.703, 478.001, 478.003, 478.004, 478.005, 478.007, 478.009, 478.466, 478.550, 478.600, 478.716, 488.2230, 488.5358, 577.001

In response to the previous version, officials at the **Department of Corrections (DOC)** assume no fiscal impact from this proposal. Section 217.703 establishes the rules and regulations of earned compliance credits (ECC) for offenders on probation, parole, or conditional release. With the new legislation, a section 12 is added which governs ECCs. An offender (on field supervision), upon entering into a treatment court, will have all ECC accrual suspended until completion of its program. At that point, all accumulated ECCs accrued during the time of suspension are retroactively applied if the offender successfully completed his/her time in treatment court. If the offender fails completion of treatment court, the offender accrues no ECCs during the time period.

To understand the impact of this bill, an analysis was done on current drug court programs used during field supervision. In FY17, a total of 9,127 offenders were discharged from probation, parole, or conditional release using earned compliance credits. Of these, 548 attended a drug court program during field supervision. Forty-four percent were unsuccessful in completing the drug program (241 individuals); they spent an average of 0.87 years in the program. From these findings, the estimated impact of this proposal is that each year 241 persons on field supervision will not earn ECC for 10 months which results in 5 more months of field supervision.

ASSUMPTION (continued)

With the enactment of this proposal, an additional 101 offender-years will occur each year in field supervision.

	# to Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)	Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (10 months)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 2 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 3 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 4 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 5 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 6 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101

Year 7 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 8 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 9 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101
Year 10 (includes 2% inflation)	0.0	(\$6,206)	\$0	0	\$0	\$0	101

§478.003 Judicial Retirement System

Officials at the **Missouri State Employees' Retirement System (MOSERS)** assume the provisions of SCS for HB 2562 (6484-03) as they apply to the Judicial Retirement Plan which is administered by the MOSERS Board of Trustees, would, if enacted, clarify in Section 478.003, RSMo, that drug court commissioners (changed to treatment court commissioners in this proposal) shall have the same qualifications, compensation and retirement benefits of an associate circuit judge.

Background:

Since the provisions of section 478.003.1, RSMo, were first passed in 1998, the provisions have been administered to included drug court commissioners are members of the Judicial Retirement Plan. It is our understanding that there are currently 9 drug court commissioners covered under the Judicial Retirement Plan.

Fiscal Impact on MOSERS:

The provision under section 478.003.1, RSMo in SCS for HB 2562 would have no fiscal impact on MOSERS.

§476.521 Judicial Retirement System

Officials at the **Joint Committee on Public Employee Retirement System (JCPER)** has reviewed this proposal. Section 476.521 impacts the Judicial Retirement System. Our review of

ASSUMPTION (continued)

this section indicates that such provision may constitute a "substantial proposed change" in future plan benefits as defined in section 105.660(10). It is impossible to accurately determine the fiscal impact of this proposed legislation without an actuarial cost statement prepared in accordance with section 105.665, RSMo. Pursuant to section 105.670, RSMo, an actuarial cost statement must be filed with the Chief Clerk of the House of Representatives, the Secretary of the Senate, and the Joint Committee on Public Employee Retirement as public information for at least five legislative days prior to final passage of the bill. An actuarial cost statement has not been filed with the JCPER.

Officials at the **County Employees' Retirement Fund** assume there is no fiscal impact from this proposal.

Officials at the **MOSERS** assume the provisions of Section 476.521 would, if enacted, require any member of the Judicial 2011 Plan who filed as a candidate in 2010 to become a judge, was ultimately elected and became a judge in 2011, was eligible in 2010 to receive a future annuity as a general assembly member or statewide elected official, and is a judge on the effective date of this section, will become a member of the closed Judicial plan.

Summary of Benefits - Judicial Retirement Plan	
Judicial Plan (First serving prior to 01/01/11)	Judicial Plan 2011 (First serving on or after 01/01/11)
Member Contributions	
-None	-4% of pay
Normal Retirement Eligibility - <i>Age and Service required to receive an unreduced retirement benefit</i>	
<ul style="list-style-type: none"> - Age 62 with 12 years of service - Age 60 with 15 years of service - Age 55 with 20 years of service 	<ul style="list-style-type: none"> - Age 67 if less than 12 years of service - Age 62 if less than 10 years of service
Early Retirement Eligibility - <i>Age and Service required to receive a REDUCED retirement benefit</i>	
<ul style="list-style-type: none"> - Age 62 if less than 12 years of service - Age 60 if less than 15 years of service 	<ul style="list-style-type: none"> - Age 67 if less than 12 years of service - Age 62 if less than 10 years of service
Benefit Payment Options - <i>Determines whether or not a benefit will be paid to anyone after member's death</i>	

- Life Income Annuity (if unmarried) - Automatic <u>Unreduced</u> Joint & 50% Survivor Option	- Life Income Annuity - Joint & 50 % Survivor Option (with reduced benefit) - Joint & 100 % Survivor Option (with reduced benefit) -Life Income with 120 Guaranteed Payments -Life income with 180 Guaranteed Payments
Base Benefit Formula - <i>Payable for member's lifetime</i>	
- Monthly Pay x 50% = Monthly Base Benefit	- Monthly Pay x 50% = Monthly Base Benefit

The provisions of this proposal will have an unknown cost to the Judicial Retirement Plan. While not specifically outlined in the provisions of the proposal, it is reasonable to assume that any judge affected by this proposal will receive a refund of the 4% employee contributions made into the Judicial Plan 2011. The refund of employee contributions' cost is estimated to range from \$25,000 to \$35,000 for each affected judge. Additionally, the plan will experience an increase in the actuarial accrued liability for any judge that is moved from the Judicial Plan 2011 to the closed Judicial Plan (pre-2011).

Judicial Retirement Plan (Status as of June 30, 2017)		
Actuarial Value of Assets	\$151,828,631	26.9%
Market Value of Assets	\$137,634,941	24.3%
Actuarial Accrued Liability	\$564,417,925	
Actuarially Determined Employer Contribution For FY 19	63.71% of payroll or \$39.4 million (estimated)	
Plan Membership		
Active Members	410	
Retirees, Inactive & Other Benefit Recipients	585	

ASSUMPTION (continued)

Oversight assumes this amendment will increase the actuarial accrued liability to the Judicial Retirement Plan; however, it may or may not increase the call from the state funds to MOSERS. Therefore, Oversight will reflect an impact of \$0 or a negative unknown cost to the state if the state increases the contributions to MOSERS to account for these individuals. For simplicity, Oversight will only reflect this potential cost to the General Revenue Fund, starting in FY 2020.

§479.354

In response to similar legislation from this year, Perfected HB 1249, officials at **St. Louis County**, the **City of Springfield**, the **City of Columbia** and the **City of O'Fallon** each assumed no fiscal impact to their respective entities from this proposal.

§488.2250

In response to similar legislation from this year, HCS for SB 871, officials at the **Office of the State Public Defender (SPD)** assumed a negative unknown cost for this proposal.

Oversight notes that SPD's response has changed from last year. In response to similar proposals from 2017, the SPD stated historically speaking, this proposal could cost SPD more than \$100,000. Oversight will reflect a potential increase in fees of an unknown amount.

In response to similar legislation from this year, HCS for SB 871, officials at **St. Louis County**, **Boone County** and the **Callaway County Commission** each assumed no fiscal impact from this proposal.

§67.398, §67.410, §82.462 & §84.510 Political Subdivisions (SA 7)

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

Oversight assumes any costs resulting from §67.398 and §67.410 can be absorbed by local political subdivisions. Therefore, Oversight will reflect no impact for this proposal.

Oversight assumes in §82.462, should this proposal be enacted, the City would take some kind of legal action to post notice of "enter at your own risk" or have liability insurance on City owned property which would not make the City liable to claims of any private citizen's action. Therefore, Oversight will not reflect a fiscal impact for this proposal.

ASSUMPTION (continued)

In response to similar legislation from this year, HB 2070, officials at the **Kansas City Police Department (KCPD)** assumed the change to the base annual compensation ranges will not have any current fiscal impact. It provides a cushion for salary growth.

Oversight assumes this proposal changes the following salary ranges for the members of the KCPD per annum.

Lieutenant Colonels - from \$71,969 to \$133,888; to the new salary range of \$71,969 to \$146,124
Majors - from \$64,671 to \$122,153; to the new salary range of \$64,671 to \$133,320
Captains - from \$59,539 to \$111,434; to the new salary range of \$59,539 to \$121,608
Sergeants - from \$48,659 to \$97,086; to the new salary range of \$48,659 to \$106,560
Master Patrol Officers - from \$56,304 to \$87,701; to the new salary range of \$56,304 to \$94,332
Master Detectives - from \$56,304 to \$87,701; to the new salary range of \$56,304 to \$94,332
Detectives, Investigators, and Police Officers - from \$26,643 to \$82,619; to the new salary range of \$26,643 to \$87,636

Oversight notes the KCPD requested 1,367 law enforcement positions (non-civilian) for their FY 2018-2019 budget. Oversight is unable to determine how many KCPD members are within each personnel category, how many are at the top of their salary range, and whether or not the City of Kansas City would provide raises to the members of the KCPD in future years.

Oversight will reflect \$0 to an Unknown cost to the City of Kansas City as a direct result of this proposal.

§516.105 and §537.100 Statute of Limitations on Service (SA 4)

In response to similar legislation filed this year, SB 809, officials at the **Office of the State Courts Administrator** assumed there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

In response to similar legislation filed this year, SB 809, officials at the **Office of the Attorney General (AGO)** assumed that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

In response to similar legislation filed this year, SB 809, officials at the **Department of Insurance, Financial Institutions and Professional Registration** and the **Department of Mental Health** each assumed no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

§559.600 Private Probation Services (SA 3)

In response to similar legislation filed this year, HB 1344, officials from the **Department of Corrections** assumed the proposal would not fiscally impact their agency.

Officials from the **Office of the State Courts Administrator** assume the proposal would not create a fiscal impact.

§1

In response to similar legislation from this year, Perfected HB 1249, officials at **St. Louis County** assumed no fiscal impact from this proposal.

Bill as a Whole

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 Health and Senior Services**, the **Department of Social Services**, the **Department of Natural Resources**, the **Department of Revenue's Motor Vehicle Division**, the **Missouri Department of Transportation**, the **Police Retirement System of St. Louis**, the **State Tax Commission**, the **Office of the State Treasurer**, and the **MoDOT & Patrol Employees' Retirement System** each assume there is no fiscal impact from this proposal.

In response to the previous version, officials at the **Office of the Attorney General (AGO)** assumed that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

In response to the previous version, officials at the **Department of Mental Health**, the **Department of Public Safety's Veterans' Commission**, the **Office of State Auditor**, and the **Office of Prosecution Services** each assumed no fiscal impact to their respective agencies from this proposal.

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

ASSUMPTION (continued)

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.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE			
<u>Cost</u> - SPD - Potential increase in court reporter fees (\$488.2250)*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Cost</u> - Office of Administration - potential increase in contributions to MOSERS \$476.521	\$0	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

*Depending on fee change (if any)

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenues</u> - municipalities - incentives/collection options for fine payments	Unknown	Unknown	Unknown
<u>Cost</u> - potential increase in court reporter fees (\$488.2250)*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Cost</u> - Potential increased KCPD salaries (\$84.510)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	Unknown	Unknown	Unknown
*Depending on fee change (if any)			

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

§143.783, 302.321, 302.341, 479.020, 479.353 - MUNICIPAL ORDINANCE AND MINOR TRAFFIC VIOLATIONS

A provision prohibiting a municipal judge from serving as a municipal judge in more than five municipalities is repealed (Section 479.020).

If a defendant charged with a minor traffic or municipal ordinance violation fails to appear and the court finds there is not good cause for failing to appear, then the court may order the suspension of the defendant's driver's license, that the defendant serve community service, or that the defendant pay a civil penalty. If a civil penalty is ordered and the defendant fails to pay, then the court may submit to the Department of Revenue for collection of the penalty through setoff against any state tax refund owed. If a defendant's license is suspended and he or she subsequently operates a motor vehicle, then the defendant shall be guilty of a misdemeanor under the provisions regarding driving without a proper license (Sections 143.783, 302.321, 479.353).

Under current law, a county or municipality that has a municipal court must submit a financial report to the auditor. This act provides that a county or municipality will meet compliance with this requirement by filing a statement confirming that twenty percent or less of its general

FISCAL DESCRIPTION (continued)

revenue comes from fines, bond forfeitures, and court costs in municipal court cases (Section 479.359).

Currently, counties and towns with a municipal court must file with the State Auditor a report demonstrating compliance with certain municipal court procedures. One procedure is that the municipal court is to make use of community service alternatives at no cost to the defendant. This act removes the provision stating that the community service alternatives are to be offered at no cost to the defendant (Section 479.360).

§488.2250

Currently for the preparation of all appellate transcripts of testimony or for proceedings in any circuit court, the court report shall receive three dollars and fifty cents per page. This act repeals the specification that the court reporter is to receive three dollars and fifty cents per page in circuit court proceedings. Also, the act repeals the provision specifying that the court reporter is to be reimbursed three dollars and fifty cents per legal page for the preparation of such transcripts.

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

County Employees' Retirement Fund
Department of Corrections
Department of Health and Senior Services
Department of Mental Health
Department of Natural Resources
Department of Revenue
Department of Social Services
Missouri Department of Transportation
Missouri State Employee Retirement System
Office of the Attorney General
Office of Prosecution Services
Office of the State Courts Administrator
Office of State Auditor
Office of the State Public Defender
State Tax Commission
Office of the State Treasurer

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Page 16 of 16

May 15, 2018

SOURCES OF INFORMATION (continued)

Department of Public Safety

Missouri Highway Patrol

Missouri National Guard

Veterans Commission

City of Kansas City

City of Springfield

City of Columbia

St. Louis County

Callaway County Commission

Boone County

City of O'Fallon

Ross Strope



Acting Director

May 15, 2018