

**COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION**

FISCAL NOTE

L.R. No.: 3120-01
Bill No.: HB 1212
Subject: Banks and Financial Institutions: Crimes and Punishment; Elderly
Type: Original
Date: February 1, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** assume there will be no fiscal impact on the Courts.

Officials from the **Office of Prosecution Services** state this proposal will not have a significant direct fiscal impact on county prosecutors, although it may lead to an increase in prosecutions/caseloads.

According to officials from the **Department of Corrections (DOC)**, 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 operational cost 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).

In summary, supervision by the DOC through probation or incarceration would result in some

ASSUMPTION (continued)

additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Health and Senior Services (DOHSS)** assume this proposed legislation would not be expected to fiscally impact the operations of DOHSS. If a fiscal impact were to result, funds to support the program would be sought through the appropriations process.

Officials from the **Department of Economic Development - Division of Finance** state this proposal will have no direct fiscal impact on their agency.

Officials from the **Department of Economic Development - Division of Credit Unions** stated this proposed legislation could result in increased administrative and examination efforts, but assigned no direct fiscal impact to their agency.

Officials from the **Department of Social Services - Division of Family Services and Division of Legal Services** state this proposal will have no fiscal impact on their agencies.

Officials from the **Office of State Public Defender** indicated that passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further overextend already overextended resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the Office of State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

<u>FISCAL IMPACT - State Government</u>	FY 2007	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposed legislation expands protection for the elderly against financial exploitation and codifies a presumption of undue influence in any transfer of real property or major transfer of personal property for less than full consideration to another person with whom the elderly or disabled person has a confidential or fiduciary relationship. To avoid a presumption of undue influence, the elderly person can be represented by independent counsel.

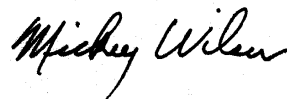
Confidential or fiduciary relationships can include relationships between the elderly or disabled person and a family member by blood or marriage, a health care provider, a trustee, an accountant, a friend, a neighbor, a spiritual advisor, or an attorney.

Courts may set aside any transfer where a finding of undue influence has been proved by the elderly individual.

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 Economic Development
 Division of Finance
 Division of Credit Unions
Department of Corrections
Department of Health and Senior Services
Department of Social Services
 Division of Legal Services
 Division of Family Services
Office of Prosecution Services
Office of State Public Defender



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February 1, 2006

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