

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0103-05
Bill No.: SCS for HB 30
Subject: Children and Minors; Public Assistance; Department of Social Services
Type: Original
Date: May 4, 2009

Bill Summary: This legislation requires the Department of Social Services to test applicants for or recipients of Temporary Assistance for Needy Families benefits for the illegal use of controlled substances.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(\$12,849,101)	(\$13,556,322)	(\$13,709,378)
Total Estimated Net Effect on General Revenue Fund	(\$12,849,101)	(\$13,556,322)	(\$13,709,378)

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 11 pages.

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

* Income and costs would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	3.64 FTE	3.64 FTE	3.64 FTE
Federal	2.86 FTE	2.86 FTE	2.86 FTE
Total Estimated Net Effect on FTE	6.5 FTE	6.5 FTE	6.5 FTE

☒ 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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 208.027:

Officials from the **Department of Health and Senior Services** and the **Department of Economic Development** each assume the proposal would have no fiscal impact on their respective agency.

In response to a previous version of this proposal, officials from the **Office of Administration-Budget and Planning** assume the proposal would have no fiscal impact on their agency.

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. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Mental Health (DMH)** state the proposed legislation requires:

- o The Department of Social Services (DSS) to refer applicants for TANF or recipients of TANF who screen and test positive for the use of a controlled substance to a drug court program and an appropriate substance abuse treatment program approved by the Department of Mental Health (DMH), Division of Alcohol and Drug Abuse (ADA). If the applicant or recipient fails to successfully complete the drug court program the applicant or recipient will be ineligible for direct TANF benefits for one year (applicant/recipient & family will still be eligible to receive

ASSUMPTION (continued)

benefits via protective or vendor payments to a third-party payee for the benefit of members of the household). DSS is also to provide (the division assumes this means pay for) appropriate substance abuse treatment.

- o The Department of Social Services (DSS) to screen and test applicants and recipients of TANF who have previously been adjudicated guilty of an intoxicated offense and the department has reasonable cause to believe engages in addictive alcoholic behavior for the presence of alcohol. ADA assumes these applicants/recipients will be referred to drug court as well and if the applicant or recipient fails to successfully complete the drug court program the applicant or recipient will be ineligible for direct TANF benefits for one year (applicant/recipient & family will still be eligible to receive benefits via protective or vendor payments to a third-party payee for the benefit of members of the household). ADA also assumes DSS is to provide (the division assumes this means pay for) appropriate substance abuse treatment.

- o The expansion of treatment capacity by 6,422 participants. The provisions of this section (208.027) are not to take effect until the general assembly funds the expansion of treatment capacity.

- o Requires screening and testing of tax credit applicants.

- o Requires the testing of elected officials.

DMH assumes that all applicants/recipients receiving treatment services will maintain eligibility for TANF benefits because they will be in treatment and meeting the requirements of the drug court. If they are not meeting the requirements of the drug court they will not be in treatment.

The estimated cost to fund this expansion is \$9,395,386 GR & \$6,935,760 Fed funds. The per client cost is \$1,463 GR (Medicaid eligible/funded services \$1,735 (\$655 GR - 38%, \$1,080 Fed - 62%) + Non-Medicaid eligible services \$808) and \$1,080 Fed (Medicaid eligible/funded services \$1,735 (\$655 GR - 38%, \$1,080 Fed - 62%).

Oversight notes that states can earn the federal medical assistance percentage (FMAP) on Medicaid program expenditures.

Officials from the **Office of the Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed with existing resources.

ASSUMPTION (continued)

Officials from the **Office of the State Courts Administrator** state the proposed legislation would make drug courts mandatory in all circuits. Currently, drug courts are not present in the following judicial circuits: 6th, 26th, 34th and 43rd. It is assumed each new circuit drug court will have the following number of participants:

6th - 50 participants
26th - 50 participants
34th - 25 participants
43rd - 25 participants.

As referenced on page 444 in the FY 2010 Missouri Judiciary Budget Request, the approximate cost per drug court participant is \$6,190 a year. The total annual cost for this legislation would be \$928,500. There is no appropriation in the judiciary's budget to fund these additional costs.

Officials from the **Department of Social Services-Division of Legal Services (DSS/DLS)** assume currently there are 41,518 families consisting of 106,213 individuals receiving Temporary Assistance benefits. With regard to controlled substance testing, assuming that 10% of this number is adversely impacted, over 10,600 people will be subject to testing in approximately 4,150 households. The way the proposed legislation is written, FSD cannot declare an applicant/recipient ineligible until after an administrative hearing, and could require that every household member be tested based on cause to believe substance abuse is occurring. There are no age limits in the statute. This will result in a high percentage of hearings. Assuming 40% of the individuals subject to testing object, this would result in an additional 4,240 additional hearings. With current staff levels, this increase could not be absorbed. Additional staff would be required. Assuming that a hearing officer could conduct (and write) 900 hearings per year, this would require an additional 4.5 hearing officers and an additional 2 support staff.

Officials from the **Department of Social Services-Family Support Division (FSD)** states the following:

Section 208.027.1-There is no specific prohibition in TANF federal law against drug testing. However, other states have tried to implement drug testing as an eligibility factor and received an injunction to stop doing so. The State of Michigan tried it, and was issued an injunction to stop. The U.S. District Court in Michigan evaluated drug testing against the Fourth Amendment, which protects individuals from unreasonable search and seizure. The Fourth Amendment's main rule requires individualized suspicion before a search can be conducted. A departure from the Fourth Amendment has been allowed for drug testing in other court cases on the basis it

ASSUMPTION (continued)

satisfied a special need when it concerned public safety. To quote from the Court's injunction, "Of critical importance is that no 'public safety' issues are implicated in the stated goals and principles of TANF."

In October, 2008, there were 34,000 adult recipients of TANF benefits. 7,510 are exempt from work participation. 26,490 adults are considered work eligible ($34,000 - 7,510 = 26,490$). Of the 7,510 who are exempt, 2,333 are temporarily disabled, 4,653 have a child under age one, 86 are excluded for domestic violence, 36 are over age 60, and 402 are two parent families that meet a work exemption.

All of these recipients would be required to submit to a one-time drug test. Utilizing information from a current statewide contract through the Office of Administration (OA), the average cost per initial drug test is \$50. When an individual has a positive first test, a "drug specimen positive confirmation test" is required at an additional cost of \$46 per test.

The one time cost for FSD to test all work eligible recipients would be $26,490 \times \$50 = \$1,324,500$. The FSD anticipates 10% or 2649 of these individuals will need a "drug specimen positive confirmation test" at a cost of \$46 per test. ($2649 \times \$46 = \$121,854$)

The FSD is also responsible for testing all applicants. The FSD received an average of 6,422 applications from August 2008 to October 2008. 24% of the applications are estimated to be exempt from work participation. 76% of the applications are estimated to have a work-eligible individual. ($6,422 \times 76\% = 4,881$) The cost to test these applicants each month would be \$244,050 ($4,881 \times \50). The FSD anticipates 10% or 488 ($4,881 \times 10\%$) of these individuals will need a "drug specimen positive confirmation test at a cost of \$46 per test. The cost for the confirmation test would be \$22,448 ($488 \times \46). The total yearly cost for testing applicants would be \$3,197,976 ($\$244,050 + \$22,448 = \$266,498 \times 12$).

Section 208.027.2-In October 2008, there were 101,916 persons receiving TANF benefits. All of these recipients would be required to answer the declaration question pertaining to alcohol related convictions.

The population of Missouri in 2008 was 5,911,605. Less than 1% (.36%) of the population was convicted of an alcohol related offense over the last three years. Using this calculation, approximately 367 persons would be referred to the contracted vendor for assessment of an alcohol addiction. ($101,916 \times .36\% = 366.90$) The FSD researched several assessment providers for costs. The cost of an assessment test ranges anywhere from \$344.60 to \$65. For this Fiscal Note, the FSD used the midpoint of \$150 per assessment. ($367 \times \$150 = \$55,050$)

ASSUMPTION (continued)

The FSD received an average of 6,422 applications from August 2008 to October 2008. Using the same calculation ($6,422 \times .36\%$), an average of 23 new applicants per month could have convictions of an alcohol related offense and require an assessment for alcohol treatment. ($23 \times \$150 = \$3450 \times 12 \text{ months} = \$41,400$)

Section 208.027.3-Section 208.027 (1) requires DSS to provide treatment. The FSD interprets Section 208-027(3) to state this treatment will be provided by the Department of Mental Health.

The FSD assumes the individuals who need the "drug specimen positive confirmation test" and those who are assessed with an addictive alcohol behavior would require admittance into a substance abuse treatment program. Since this number is lower than 6,422 Department of Mental Health, stated within the statute the FSD would have no fiscal impact on this treatment which costs are reflected within the Department of Mental Health's fiscal note.

Section 487.001-The FSD will refer any applicant or recipient who tests positive for illegal use of a controlled substance to drug court. This would have no fiscal impact on the FSD.

Oversight assumes per phone conversation with DSS that a savings might be realized. The average TANF grant is \$292 for a family of three (a parent and two children). If the parent tested positive and was declared ineligible for TANF benefits the grant would decrease to \$234 and a \$58 savings would be realized. Based on the 7.9% statistic used by the DMH in 2008 Oversight believes the DSS could have a saving of \$0 to \$1,869,456 ($\$58 \times 2,686 \times 12$).

Due to time constraints DOS was unable to respond to the -04 version. **Oversight** assumes, from phone conversations with DOS, that there will be additional cost to the -04 version. Therefore, Oversight has included an unknown but Greater than \$100,000 cost to the Department.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Savings - Department of Social Services*</u>			
Reduced TANF Payments	\$0 to \$1,869,456	\$0 to \$1,869,456	\$0 to \$1,869,456
<u>Costs - Department of Mental Health</u>			
Program Cost	(\$9,395,386)	(\$9,395,386)	(\$9,395,386)
<u>Costs - Office of the State Courts</u>			
Administrator			
Program Costs	(\$928,500)	(\$928,500)	(\$928,500)
<u>Costs - Department of Social Services</u>			
Personal Service-DLS	(\$106,198)	(\$131,314)	(\$135,253)
Fringe Benefits-DLS	(\$51,644)	(\$63,858)	(\$65,774)
Equipment and Expense-DLS	(\$36,053)	(\$23,716)	(\$24,427)
<u>Total Costs - DSS</u>	<u>(\$193,895)</u>	<u>(\$218,888)</u>	<u>(\$225,454)</u>
FTE Change - DSS	3.64 FTE	3.64 FTE	3.64 FTE
<u>Costs - Department of Social Services</u>			
Drug Testing for Applicants	(\$2,440,402)	(\$3,016,458)	(\$3,106,952)
Drug Testing for Recipients	(\$1,324,500)	(\$1,364,235)	(\$1,405,162)
Alcohol Testing Applicants	(\$34,499)	(\$42,642)	(\$43,921)
Alcohol Testing Recipients	(\$55,050)	(\$56,702)	(\$58,403)
Testing Positive Applicants	(\$224,471)	(\$277,457)	(\$285,781)
Testing Positive Recipients	(\$121,854)	(\$125,510)	(\$129,275)
<u>Total Costs - DSS</u>	<u>(\$4,200,776)</u>	<u>(\$4,883,004)</u>	<u>(\$5,029,494)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*	<u>(\$12,849,101)</u>	<u>(\$13,556,322)</u>	<u>(\$13,709,378)</u>
Estimated Net FTE Change for General Revenue Fund	3.64 FTE	3.64 FTE	3.64 FTE

*Oversight used \$1,869,456 savings in the net effect total.

FEDERAL FUNDS

<u>Income</u> - Department of Mental Health			
Federal Assistance	\$6,935,760	\$6,935,760	\$6,935,760
<u>Income</u> - Department of Social Services			
Federal Assistance	\$152,347	\$171,983	\$177,142
<u>Costs</u> - Department of Mental Health			
Program Costs	(\$6,935,760)	(\$6,935,760)	(\$6,935,760)
<u>Costs</u> - Department of Social Services-			
DLS			
Personal Service	(\$83,442)	(\$103,175)	(\$106,270)
Fringe Benefits	(\$40,578)	(\$50,174)	(\$51,679)
Equipment and Expense	<u>(\$28,327)</u>	<u>(\$18,634)</u>	<u>(\$19,193)</u>
<u>Total Costs</u> - DSS	<u>(\$152,347)</u>	<u>(\$171,983)</u>	<u>(\$177,142)</u>
FTE Change - DSS	2.86 FTE	2.86 FTE	2.86 FTE

ESTIMATED NET EFFECT ON FEDERAL FUNDS

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change for Federal Funds	2.86 FTE	2.86 FTE	2.86 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<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.

FISCAL DESCRIPTION

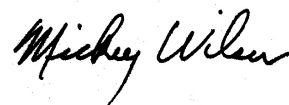
Section 208.027:

This legislation requires the Department of Social Services to develop a program to screen and test work-eligible applicants for or work-eligible recipients of the Temporary Assistance for Needy Families (TANF) Program benefits who the Department has reasonable cause to believe, based on the screening, engage in the illegal use of controlled substances. Applicants or recipients who test positive for the use of a controlled substance after an administrative hearing will be declared ineligible for TANF benefits for one year beginning on the date of the administrative hearing decision. The Department will refer individuals who tested positive to a substance abuse treatment program approved by the Division of Alcohol and Drug Abuse within the Department of Mental Health. Any member of a household which includes a person who has been declared ineligible for TANF benefits, if otherwise eligible, will continue to receive protective or vendor payments through a third-party payee.

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 Mental Health
Department of Health and Senior Services
Department of Social Services
Office of the Secretary of State
Office of the Attorney General
Office of Administration-Budget and Planning
Department of Economic Development
Office of the State Courts Administrator



L.R. No. 0103-05
Bill No. SCS for HB 30
Page 11 of 11
May 4, 2009

Mickey Wilson, CPA
Director
May 4, 2009