

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0705-05
Bill No.: SCS for HCS for HBs 187 & 235
Subject: Children and Minors; Domestic Relations; Marriage and Divorce
Type: Original
Date: May 11, 2009

Bill Summary: The proposal revises various sections relating to judicial procedures.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	\$249,006	(\$116,689)	(\$757,520)
Total Estimated Net Effect on General Revenue Fund	\$249,006	(\$116,689)	(\$757,520)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Children's Trust	\$10,500	\$12,600	\$12,600
Endowed Care Cemetery	\$2,100	\$2,520	\$2,520
MO Public Health Services	\$10,500	\$12,600	\$12,600
Statewide Court Automation	\$83,333	\$100,000	\$100,000
Technology	(\$282,500)	(\$380,000)	(\$235,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$176,067)	(\$252,280)	(\$107,280)

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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development, Department of Transportation, Department of Insurance, Financial Institutions, and Professional Registration, Department of Mental Health, and the Department of Public Safety – Director’s Office** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (Perfecting HCS for HBs 187 & 235, LR # 0705-04), officials from the **Office of Administration, Office of the Governor, Department of Revenue, and the State Treasurer’s Office** assumed the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (Perfecting HCS for HBs 187 & 235, LR # 0705-04), officials from the **Office of Prosecution Services (OPS)** assumed the potential fiscal impact on county prosecuting attorneys will depend on the extent to which law enforcement agencies choose to enforce this provision and/or are able to enforce this provision. If law enforcement agencies make arrests under this provision, there may be an impact based on the additional cases that may be filed. OPS assumes this legislation would not have any significant fiscal impact on the OPS.

Oversight assumes county prosecutors could absorb any increase in cases referred to prosecutors within existing resources.

Officials from the **Office of the Secretary of State – Administrative Rules Division (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.

ASSUMPTION (continued)

Sections 193.087, 193.215, and 454.445 – Paternity

Officials from the **Department of Health and Senior Services (DHSS)** assume Section 193.087 of the proposal makes the voluntary acknowledgment of paternity affidavit a public record and allows DHSS to release the affidavit upon request and charge a fee which is to be established by rule by DHSS. Currently, a court order is required to obtain a copy of a completed voluntary acknowledgment of paternity affidavit. Inquiries and requests are expected to increase if this bill passes.

Currently, DHSS, Bureau of Vital Records responds to approximately eight to ten inquiries per day regarding access to a voluntary acknowledgment of paternity affidavit. This amount is expected to double from the current amount with an increase of approximately 2,520 requests annually (10 requests x average of 21 working days per month x 12 months in a year = 2,520). It is not anticipated that additional FTE resources would be needed, unless the demand exceeds expectations.

This bill also requires DHSS to establish a fee by rule to charge for a copy of the voluntary acknowledgment of paternity affidavit. It is anticipated that this fee will be consistent with the search fee, equal to the amount for a certification of a vital record established in Section 193.265, RSMo. Pursuant to Section 193.265, RSMo, the cost per birth certificate statement is \$15 to be distributed as follows: Children's Trust Fund – \$5; General Revenue – \$4; Endowed Cemetery Fund – \$1, and Missouri Public Health Services Fund (MOPHS) – \$5. The increase in revenue for FY 2010 is determined by 2,520 requests x \$15 per request = \$37,800, adjusted to \$31,500 for a 10-month period in FY 2010. Per 193.265, RSMo, this revenue will be split between four funds as follows: GR = \$8,400; Children's Trust Fund = \$10,500; Endowed Cemetery Fund = \$2,100; and Missouri Public Health Services Fund = \$10,500.

Officials from the **Department of Social Services (DOS)** assume this bill in sections 193.087, 193.215, and 454.445 provide that an affidavit acknowledging paternity is not a public record and a copy of such document may only be provided by the Department of Health and Senior Services to the mother, the father, and the attorneys of the mother and father. The Child Support Enforcement Division (division) assumes these sections of the bill would limit its ability and the ability of other states' child support agencies to obtain copies of affidavits in cases where Title IV-D child support services are being provided and would, therefore, adversely affect the child support agency's ability to provide services. Additionally, the division believes these changes are inconsistent with federal law at 42 USC, section 666(a)(5)(M) and 42 USC, section 666(c)(1)(D), which require states to have procedures as follows:

ASSUMPTION (continued)

- (M) Filing of acknowledgments and adjudications in state registry of birth records.-Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.

- (D) Access to information contained in certain records
To obtain access, subject to safeguards on privacy and information security, and subject to the nonliability of entities that afford such access under this subparagraph, to information contained in the following records (including automated access, in the case of records maintained in automated data bases):
 - (I) Records of other State and local government agencies including:
 - (I) vital statistics (including records of marriage, birth, and divorce);
 - (II) State and local tax and revenue records (including information on residence address, employer, income and assets);
 - (III) records concerning real and titled personal property;
 - (IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;
 - (V) employment security records;
 - (VI) records of agencies administering public assistance programs;
 - (VII) records of the motor vehicle department; and
 - (VIII) corrections records.

Because these changes are inconsistent with federal law, the division believes their enactment would result in the federal government finding that Missouri is out of compliance with Title IV-D State Plan requirements. Failure to comply with Title IV-D State Plan requirements will result in a total loss of federal funding including incentives. This amount for federal fiscal year 2008 was approximately \$63 million. Any loss of federal funding would have to be replaced by General Revenue. A federally approved IV-D State Plan is also a requirement to receive the TANF block grant. So, a disapproved IV-D State Plan could also jeopardize the federal TANF funding.

ASSUMPTION (continued)

Oversight assumes the intent of the proposal is not to place the Title IV-D State Plan out of compliance with federal requirements. Therefore, Oversight is reflecting no fiscal impact to the DOS for this fiscal note. If DOS is determined to be out of compliance with Title IV-D State Plan requirements, Oversight assumes changes would be made in future legislation to comply with federal requirements.

Section 476.055 – Statewide Court Automation Fund

Oversight assumes the proposed legislation would extend the September 1, 2009, expiration date of the Statewide Court Automation Fund and the statewide court automation fund fees until September 1, 2019. The balances in the fund for fiscal years 2006, 2007, and 2008 are as follows:

**Statewide Court Automation Fund (0270)
 from
 Fund Activity Report**

Fiscal Year	Beginning Balance	Receipts	Disbursements/JV's	Transfers/IAB	Ending Balance
2008	\$523,044.68	\$5,684,275.66	(\$4,176,715.19)	(\$1,286,070.86)	\$744,534.29
2007	\$573,953.71	\$5,334,765.18	(\$4,608,026.49)	(\$777,647.72)	\$523,044.68
2006	\$407,097.67	\$4,753,205.91	(\$3,449,035.10)	(\$1,137,311.77)	\$573,953.71
Avg	\$501,365.35	\$5,257,415.58	(\$4,077,925.59)	(\$1,067,010.12)	\$613,844.23

Oversight assumes the proposal would result in continued revenues and costs to the Statewide Court Automation Fund in fiscal years 2010, 2011, and 2012. Based on the data from the past three fiscal years, Oversight assumes the proposal would result in average revenues of approximately \$5,300,000, costs of approximately \$4,100,000, and transfers of approximately (\$1,100,000), resulting in a net increase to the Statewide Court Automation Fund of approximately \$100,000 per fiscal year. FY 2010 amounts have been adjusted to reflect 10 months.

ASSUMPTION (continued)

Various Sections – Corporations and LLC Filings

Officials from the **Office of the Secretary of State (SOS)** assume the proposal will allow the SOS to charge an additional fee for expedited filings; it will allow corporations to change the due date of their corporate registration report; it will allow corporations to elect to file their corporate registration report biennially; it will reduce the fee for LLCs organizing online; and it will extend the amount of time a corporation has from thirty days to ninety days before the SOS is required to administratively dissolve a corporation for failure to file their registration report.

The proposal would require the SOS to notify limited liability companies and limited partnerships 30 days in advance of the expiration of the LLC or the partnership's duration and allow the LLC or partnership to extend the duration. If the duration is not extended by the LLC or partnership, the SOS will notify the LLC or partnership it has 60 days to extend before being administratively dissolved by the SOS. Upon dissolution, the SOS must notify the LLC or partnership it has been administratively dissolved.

SOS estimates the fiscal impact of the proposal as follows:

Expedited fees: SOS Estimates 2 expedited requests per week at \$200 per filing.

Reduction of online filing fees for LLCs: SOS assumes that 50% of the 30,000 LLCs formed each year will file online (15,000 x \$55).

Option to change the due date of the corporate registration report: SOS assumes that 30% of the 115,200 general business corporations will opt to change their due date; of those, 50% will change in FY 10 and 50% will change in FY 11.

Option for a biennial corporate registration report: SOS assumes that 50% of the 115,200 general business and 50% of the 36,000 non-profit corporations will elect to file biennially. Corporations formed in odd numbered years can opt biennial filing in an odd numbered filing year; corporations formed in even numbered years can opt biennial filing in an even numbered filing year. SOS assumes that 50% will opt to file biennially, with 75% of the general business and 55% of the non-profit filing online; the remainder will file paper reports. The change will occur over two fiscal years, with 76% of the general business corporations that change changing in FY 10 and 24% changing in FY 11. For non-profits, the first year change will occur in FY 11. A reduction in Technology Trust Fund fees will result from the biennial registration Technology Trust Fund fee being \$5.00 rather than \$10.00.

ASSUMPTION (continued)

Expenses for FY 10 are for one time contract programming with the KB system vendor. FY 11 and FY 12 cost avoidance is in reduced postage and printing because of biennial filing.

There are just over 225,000 active limited liability companies and 16,000 limited partnerships registered with the SOS. Since most LLCs and limited partnerships have a duration of perpetual or an average of 50 years, the number of companies and partnerships affected by this legislation, while unknown, is assumed to be minimal. Therefore, the number of notices sent by the SOS will also be minimal; the SOS will absorb the fiscal impact of this part of the legislation.

In summary, SOS estimates the fiscal impact to the General Revenue fund to be increased revenues of approximately \$240,000 in FY10, and losses of approximately \$130,000 in FY11 and \$770,000 in FY12. In addition, SOS assumes a net loss in revenues to the Technology Fund of approximately \$145,000 in FY10, \$380,000 in FY 11, and \$235,000 in FY 12.

Sections 1 and 2 – Modification of Child Support

Officials from the **Department of Social Services (DOS)** assume Section 1 of the bill provides that the state, or any political subdivision of the state, shall not be required to represent any party in a child support modification proceeding if the party's income exceeds 300 percent of the federal poverty level. 42 USC, section 654(4) requires that a state plan for child and spousal support must provide that the State will:

- (A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to
 - (I) each child for whom (I) assistance is provided under the State program funded under part A of this subchapter, (II) benefits or services for foster care maintenance are provided under the State program funded under part E of this subchapter, (III) medical assistance is provided under the State plan approved under subchapter XIX of this chapter, or (IV) cooperation is required pursuant to section 2015(1)(1) of title 7, unless, in accordance with paragraph (29), good cause or other exceptions exist;
 - (ii) any other child, if an individual applies for such services with respect to the child;

ASSUMPTION (continued)

Although DOS can charge fees for modification services, federal law does not allow DOS to deny services based on an applicant's income. DOS, therefore, believes that Section 1 of the bill is inconsistent with federal law and would result in the federal government finding that Missouri is out of compliance with Title IV-D State Plan requirements. The Department of Health and Human Services, Administration for Children and Families, Region VII office issued a letter to DOS on March 10, 2009, indicating their position that this provision of the bill conflicts with federal law and compromises Missouri's Title IV-D state plan compliance. Failure to comply with Title IV-D State Plan requirements will result in a total loss of federal funding including incentives. This amount for federal fiscal year 2008 was approximately \$63 million. Any loss of federal funding would have to be replaced by General Revenue. A federally approved IV-D State Plan is also a requirement to receive the TANF block grant. So, a disapproved IV-D State Plan could also jeopardize the federal TANF funding.

DOS assumes Section 2 of the bill allows the court to award court costs and attorney fees to the state in cases where a party in a child support modification proceeding is represented by the state. The Division of Child Support Enforcement (division) interprets this section to give the division the authority to petition the court for court costs and reasonable attorney fees in modification proceedings where the division is a party. The division believes it currently has the authority to attempt to recover such costs in Title IV-D child support cases if done in accordance with section 454.425, RSMo; 42 USC, section 654(6); and 45 Code of Federal Regulations, 302.33(d). Since the bill does not require the division to petition the court for an award of court costs and attorney fees, but only makes clear the division's authority to petition for such an award, no fiscal impact is being included for this provision of the bill.

Oversight received a copy of the letter to the Department of Social Services (DOS) from the US Department of Health and Human Services. In this letter, it states, "Since it appears this bill is inconsistent with Federal law, adoption of such could result in the Missouri Child Support Enforcement Program being found out of compliance with Title IV-D State Plan Requirements." Based upon this, Oversight assumes DOS assumption that the proposal would jeopardize federal funding is speculative. Therefore, Oversight is reflecting no fiscal impact to the DOS for this fiscal note. If DOS is found to be out of compliance with Title IV-D State Plan requirements, then the proposal could result in a loss of federal funding.

Officials from the Office of the Attorney General, Office of the State Public Defender, Jackson County, St. Charles County, and St. Louis County did not respond to Oversight's request for fiscal impact.

ASSUMPTION (continued)

The proposed legislation could directly affect Total State Revenue (TSR). TSR will increase in FY 10 because of corporations electing to pay an additional fee to change the due date of their corporate registration report and electing to file their report biennially rather than annually; this increase will offset the decrease in revenue associated with a reduction in the online filing fee for Limited Liability Companies (LLC). In FY 11 and FY 12 there will be a decrease in TSR because the reduction in filing fees for LLCs will exceed the increase in fees associated with biennial filing and the change of the corporate registration report due date.

Section 193.087 of the proposal could directly affect Total State Revenue (TSR). The Department of Health and Senior Services (DHSS) shall establish a fee for a copy of the voluntary acknowledgment of paternity affidavit, which could increase TSR.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Revenues</u> – Office of the Secretary of State			
Corporation/LLC/LP filing fees	\$240,606	\$0	\$0
<u>Revenues</u> – Department of Health and Senior Services			
Paternity affidavit fees (§193.087)	\$8,400	\$10,080	\$10,080
<u>Savings</u> – Office of the Secretary of State			
Reduced mailers and postage	\$0	\$15,287	\$15,800
<u>Losses</u> – Office of the Secretary of State			
Corporation/LLC/LP filing fees	\$0	(\$142,056)	(\$783,400)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$249,006</u>	<u>(\$116,689)</u>	<u>(\$757,520)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2010 (10 Mo.)	FY 2011	FY 2012
CHILDREN'S TRUST FUND			
<u>Revenues</u> – Department of Health and Senior Services			
Paternity affidavit fees (§193.087)	<u>\$10,500</u>	<u>\$12,600</u>	<u>\$12,600</u>
ESTIMATED NET EFFECT ON CHILDREN'S TRUST FUND	<u>\$10,500</u>	<u>\$12,600</u>	<u>\$12,600</u>
ENDOWED CARE CEMETERY FUND			
<u>Revenues</u> – Department of Health and Senior Services			
Paternity affidavit fees (§193.087)	<u>\$2,100</u>	<u>\$2,520</u>	<u>\$2,520</u>
ESTIMATED NET EFFECT ON ENDOWED CARE CEMETERY FUND	<u>\$2,100</u>	<u>\$2,520</u>	<u>\$2,520</u>
MO PUBLIC HEALTH SERVICES FUND			
<u>Revenues</u> – Department of Health and Senior Services			
Paternity affidavit fees (§193.087)	<u>\$10,500</u>	<u>\$12,600</u>	<u>\$12,600</u>
ESTIMATED NET EFFECT ON MO PUBLIC HEALTH SERVICES FUND	<u>\$10,500</u>	<u>\$12,600</u>	<u>\$12,600</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2010 (10 Mo.)	FY 2011	FY 2012
STATEWIDE COURT AUTOMATION FUND			
<u>Revenues</u> – Office of State Courts Administrator (§476.055)			
Continued collection of state court automation fund fees	\$4,416,667	\$5,300,000	\$5,300,000
<u>Costs</u> – Office of State Courts Administrator (§476.055)			
Statewide court automation system	(\$3,416,667)	(\$4,100,000)	(\$4,100,000)
<u>Transfers</u> – Office of State Courts Administrator (§476.055)			
Net of transfers in, transfers out, and IAB transactions	<u>(\$916,667)</u>	<u>(\$1,100,000)</u>	<u>(\$1,100,000)</u>
ESTIMATED NET EFFECT ON STATEWIDE COURT AUTOMATION FUND	<u>\$83,333</u>	<u>\$100,000</u>	<u>\$100,000</u>
TECHNOLOGY FUND			
<u>Losses</u> – Office of the Secretary of State Corporation/LLC/LP fees			
	(\$145,000)	(\$380,000)	(\$235,000)
<u>Costs</u> – Office of the Secretary of State Contract programming (one-time)			
	<u>(\$137,500)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON TECHNOLOGY FUND	<u>(\$282,500)</u>	<u>(\$380,000)</u>	<u>(\$235,000)</u>

<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

This legislation could have a positive impact on small business because it will make it easier for a limited liability company (LLC) and a limited partnership to continue the existing LLC or limited partnership rather than create a new LLC or partnership if the existing company or partnership fails to extend its duration.

FISCAL DESCRIPTION

Sections 193.087, 193.215, & 454.445 – Paternity

A voluntary affidavit acknowledging paternity is not a public record and a copy may only be provided to the mother, the father, and the attorneys of the mother and father. The proposal requires Department of Health and Senior Services to establish a fee by rule to charge for a copy of the voluntary acknowledgment of paternity affidavit.

Section 476.055 – Statewide Court Automation Fund

The proposed legislation extends the expiration date for the Statewide Court Automation Fund from September 1, 2009 to September 1, 2019.

Various Sections – Corporations and LLC Filings

Beginning January 1, 2010, the proposal allows a corporation to file a corporate registration report on a biennial basis and to change the month of its corporate registration report by designating the desired month and paying an additional \$20 fee. Corporations incorporated in an even-numbered year may only file a report in an even-numbered year, and corporations incorporated in an odd-numbered year may only file a report in odd-numbered years. The fee for filing the biennial report will be \$80 if filed in a written format and \$30 if in an electronic format. Any corporation filing a biennial report must maintain the registration for two years, but may choose to file an annual registration in subsequent years.

FISCAL DESCRIPTION (continued)

The Secretary of State is authorized to charge a \$45 fee for a corporate filing of the original articles of organization in an electronic format.

Currently, the Secretary of State may commence a proceeding to dissolve a corporation if it fails to deliver its corporate registration report to the Secretary of State within 30 days after it is due. The bill changes the deadline to within 90 days.

The proposal allows the Secretary of State to administratively cancel the articles of organization of limited liability companies and limited liability partnerships if the period of duration on the articles expires and the company or partnership does not amend the articles in a timely manner. The Secretary of State may rescind a cancellation under certain circumstances.

Sections 1 and 2 – Modification of Child Support

In any proceeding for modification of child support, the state or any political subdivision shall not be required to represent any party to such proceeding if such party's income equals or exceeds three hundred percent of the federal poverty level. The court may award court costs and reasonable attorney fees to the state.

This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

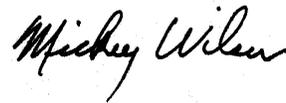
SOURCES OF INFORMATION

Office of Administration
Office of State Courts Administrator
Department of Economic Development
Department of Transportation
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Health and Senior Services
Department of Revenue
Department of Public Safety
 – Director's Office
Office of Prosecution Services
Office of the State Public Defender
Office of the State Treasurer

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NOT RESPONDING

**Office of the Attorney General
Office of the State Public Defender
Jackson County
St. Charles County
St. Louis County**



Mickey Wilson, CPA
Director
May 11, 2009