COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.:   1037-03
Bill No.:   HB 1125
Subject: Courts; Crimes and Punishment; Judges
Type: Original
Date: April 20, 2009

Bill Summary: The proposal changes the laws on enforcement of orders of protection to include the same remedies for violations of ex parte and full orders of protection.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
Total Estimated Net Effect on General Revenue Fund	**(Less than $100,000)**	**(Less than $100,000)**	**(Less than $100,000)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 6 pages.

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 Public Safety – Director's Office** and the **Boone County Sheriff's Department** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Corrections (DOC)** assume the penalty provision component of this bill, resulting in potential fiscal impact for DOC, is for up to a class D felony for five additional violations.

Currently, violating an order of protection for an adult or child is a class A misdemeanor which is supervised by DOC. The class A misdemeanor for violating an order of protection for an adult can be increased to a class D felony if the offender has previously plead guilty to or has been found guilty of violating an order of protection within five years of the subsequent violation. This bill will add another class D felony stipulation regarding those previously found in criminal contempt of an order of protection within five years of the date of violation. It applies these same violations to the child protection order, which creates four new felonies.

Over the past three fiscal years, DOC has over 100 new probation cases for the class A misdemeanor for violation of order of protection for an adult. In contrast, only three new probation cases have been opened for violation of order of protection for a child. Nearly sixteen percent of the violation of order of protection for an adult population over that time period is eventually charged with the class D felony or second offense. In FY08, nine offenders received probation, five served sentences, and four received 120-day sentences. The average time served for those receiving sentences was 20 months.

The new class D felony convictions may even be a slightly larger number than the current class D felony. The reason for this is that the standard of culpability is slightly lower for the new offense. Offenders are more likely to have been found in criminal contempt of an order of protection than have been found guilty of violating an order of protection.

DOC cannot currently 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.

BLG:LR:OD (12/02)

ASSUMPTION (continued)

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 direct offender cost either through incarceration (FY08 average of $15.64 per offender per day, or an annual cost of $5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of $2.47 per offender per day, or an annual cost of $902 per offender).

The need for capital improvements is not anticipated at this time. It must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eighteen (18) persons would have to be incarcerated per fiscal year to exceed $100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than $100,000 per year for the DOC.

Officials from the **Office of the State Public Defender (SPD)** assume increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the Office of Prosecution Services, Buchanan County Sheriff's Department, Clark County Sheriff's Department, Jackson County Sheriff's Department, Platte County Sheriff's Department, and the St. Louis County Police Department did not respond to Oversight's request for fiscal impact.

FISCAL IMPACT - State Government	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
Costs – Department of Corrections Incarceration/probation costs	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**(Less than $100,000)**	**(Less than $100,000)**	**(Less than $100,000)**

FISCAL IMPACT - Local Government	FY 2010 (10 Mo.)	FY 2011	FY 2012
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

The proposed legislation changes the laws regarding the enforcement of orders of protection by establishing the same remedies for violations of ex parte and full orders of protection.

The proposal also specifies that any person who has previously pled guilty to or has been found guilty of violating an ex parte order of protection or a full order of protection within five years of any subsequent violation will be guilty of a class D felony.
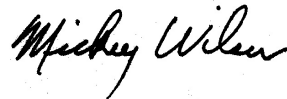
This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

BLG:LR:OD (12/02)

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Corrections
Department of Public Safety
      – Director's Office
Office of the State Public Defender
Boone County Sheriff's Department

NOT RESPONDING

Office of Prosecution Services
Buchanan County Sheriff's Department
Clark County Sheriff's Department
Jackson County Sheriff's Department
Platte County Sheriff's Department
St. Louis County Police Department

Mickey Wilson, CPA
Director
April 20, 2009

BLG:LR:OD (12/02)