

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5997-01
Bill No.: HB 1907
Subject: Mental Health; Disabilities; Civil Procedure; Criminal Procedure
Type: Original
Date: April 30, 2012

Bill Summary: This proposal changes various provisions regarding vulnerable persons.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(\$241,121 to Unknown)	(\$705,850 to Unknown)	(\$1,157,855 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$241,121 to Unknown)	(\$705,850 to Unknown)	(\$1,157,855 to Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Federal Funds	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health (DMH)** state this proposed legislation modifies various provisions, including definitions, regarding vulnerable persons. In Section 630.005, the definition of vulnerable person as served by DMH is modified. The current definition is “vulnerable person, as in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.”

The proposed modifications to the definition in Section 630.005 will add individuals to include not only those being presently served by the department, but also anyone who, as a result of an inadequately developed or impaired intelligence or a substantial psychiatric disorder, lacks the mental capacity to consent or whose developmental level does not exceed that of an ordinary child of fourteen years of age.

DMH is concerned that the broadened definition of “vulnerable person” to include those individuals not served by DMH will create additional legal and administrative costs as a result of the terminology. It is not known how many individuals will be affected or the extent of the problems to be resolved. DMH assumes these changes could cause significant legal and fiscal impacts to the department.

Officials from the **Department of Corrections (DOC)** state passage of this bill would annually divert specified child abuse offenders formerly eligible for probation or parole. In FY11 there were 17 class C felony child abuse term admissions with an average term service of 45.2 months (3.8 years), 12 120-day admissions and 63 new court probations. The change has no impact to term admissions because offenders usually serve 3.8 years which is longer than the 1 year specified in the bill. $75 (12 + 63)$ offenders would be diverted annually from probation and 120-day sentences to prison and this will add 251 offenders (by the 4th year and static thereafter) to the incarcerated population assuming those offenders would serve an average 3.8 years time.

The provisions of this proposal also prescribed that a class B felony child abuse offender should not have the eligibility for probation or parole until the defendant has served no less than 5 years of such sentence. In FY11 there were 2 new admissions, 1 new term admission with service time of 67 months (5.6 years) and 1 120-day admission. The change has no impact to term admissions because the 5.6 years of term service is longer than the 5 years specified in the bill. One offender is estimated to be diverted from a 120-day sentence to prison and this will add 6 offenders (by the 6th year and static thereafter) to the incarcerated population assuming those offenders would serve an average 5.6 years time.

ASSUMPTION (continued)

The bill states that child abuse is a class A felony, without eligibility for probation or parole until the defendant has served not less than 15 years of such sentence, if the child is less than 14 years of age and the injury is a serious emotional or physical injury and is the result of sexual abuse or sexual exploitation of a minor. The existing statute implies child abuse that involves a prohibited sexual act is a class C felony and becomes a class B felony if the abuse inflicts serious emotional injury upon the child. There was only 1 offender convicted of child abuse with a prohibited sexual act in FY11, who served probation sentences, which implies no serious injury resulted. As stated above in FY11, there were only 2 admissions of child abuse that caused serious injury to a child. DOC has no way to know if those 2 cases also involved a prohibited sexual act. The impact of this change is unknown but expected to be small.

In total, the potential net impact on the population is expected to be at least 257 prison-term offenders by the 6th year out, remaining static thereafter.

The table below assumes an annual inmate cost of \$6,160.47 and an annual inflation rate of 3 percent.

	End FY population	Avg. population	Direct offender expense	Total cost w/ inflation
FY '12	0	(current year which will have no costs incurred)		
FY '13	76	38	234,098	241,121
FY '14	140	108	665,331	705,850
FY '15	204	172	1,059,601	1,157,855
FY '16	255	230	1,416,908	1,594,742
FY '17	256	256	1,577,080	1,828,268
FY '18	257	257	1,583,241	1,890,473
FY '19	257	257	1,583,241	1,947,187
FY '20	257	257	1,583,241	2,005,602
FY '21	257	257	1,583,241	2,065,770
FY '22	257	257	1,583,241	2,127,744
		Total ten-year fiscal impact:		\$ 15,564,611

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 (FY11 average of \$16.878 per offender, per day, or an annual cost of \$6,160 per inmate) or through supervision provided by the Board of Probation and Parole (FY11 average of \$5.03 per offender, per day or an annual cost of \$1,836 per offender).

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of the indicated measurable dollar amount per year.

Therefore, DOC assumes a cost to the General Revenue Fund of (\$241,121 to Unknown) in FY 2013, (\$705,850 to Unknown) in FY 2014, and (\$1,157,855 to Unknown) in FY 2015.

Officials from the **Department of Social Services - Division of Legal Services (DOS - DLS)** assume proposed Section 568.055 may cause an increase in litigation costs in defending the Children's Division preponderance of evidence findings as the proposed definitions differ from the definitions under the juvenile statute, which are relied on when deciding whether or not a defendant will be afforded a trial before being put on the Central Registry. DOS - DLS states there could be an increase in litigation costs, necessitating the need for an additional FTE from this proposal of under \$100,000 per year to both the General Revenue Fund and Federal Funds.

DOS' Children's Division state the bill removes Section 568.060 (crime of abuse of a child) and replaces it with Section 568.055. Currently, there are several Child Protection Statutes that refer directly to 568.060. The Children's Division does not believe the intent of the bill is to negate the reference in other statutes to the crime of child abuse; therefore, if the issue was fixed, the Division would not anticipate a fiscal impact.

Section 568.060 is also referenced in several places in the Child Welfare Manual, which will need to be revised; however, these changes can be absorbed with minimal impact.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons faced with the penalties for the expanded definitions of abuse or neglect of a child and domestic assault.

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 SPD will continue to request sufficient appropriations to provide effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services, Office of Prosecution Services, Department of Public Safety - Missouri Highway Patrol,** and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Costs - Department of Mental Health</u>			
Increased costs from additional number of persons who could qualify for DMH services by expanding the definition of 'vulnerable person' within Sec. 630.005	(Unknown)	(Unknown)	(Unknown)
<u>Costs - Department of Corrections</u>			
Increased length of incarceration time for abuse or neglect of a child	(\$241,121 to Unknown)	(\$705,850 to Unknown)	(\$1,157,855 to Unknown)
<u>Costs - Department of Social Services</u>			
Increased litigation costs from child abuse Section 568.055	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(\$241,121 to <u>Unknown</u>)	(\$705,850 to <u>Unknown</u>)	(\$1,157,855 to <u>Unknown</u>)
FEDERAL FUNDS			
<u>Costs - Department of Social Services</u>			
Increased litigation costs from child abuse Section 568.055	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO FEDERAL FUNDS	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

FISCAL IMPACT - Local Government

FY 2013
(10 Mo.)

FY 2014

FY 2015

\$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

Abuse or neglect of a child is a class C felony, without the eligibility for probation or parole until the defendant has served no less than one year of such sentence (or five years if the person has previously been found guilty of a violation of the same section).

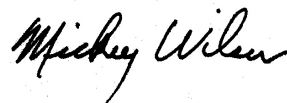
The proposal also broadens the definition of 'vulnerable person' in Section 630.005 regarding the Department of Mental Health.

The proposal repeals and re-enacts provisions regarding the abuse or neglect of a child. The crime of abuse or neglect of a child is revised to include when a person knowingly causes a child who is younger than 18 years old to suffer from shaken baby syndrome.

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 the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Mental Health
Department of Social Services
Department of Health and Senior Services
Department of Public Safety
Department of Corrections



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