

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3256-02
Bill No.: SB 766
Subject: Crimes and Punishment; Children and Minors; Drugs and Controlled Substances;
 Alcohol
Type: Original
Date: January 15, 2008

Bill Summary: This proposal criminalizes prenatal drug or alcohol use.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(More than \$1,726,754)	(More than \$1,726,754)	(More than \$1,726,754)
Total Estimated Net Effect on General Revenue Fund	(More than \$1,726,754)	(More than \$1,726,754)	(More than \$1,726,754)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
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 2009	FY 2010	FY 2011
Federal	(More than \$613,955)	(More than \$613,955)	(More than \$613,955)
Total Estimated Net Effect on <u>All</u> Federal Funds	(More than \$613,955)	(More than \$613,955)	(More than \$613,955)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	19	19	19
Federal	7	7	7
Total Estimated Net Effect on FTE	26	26	26

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 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol** and the **– Director’s Office** 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 they 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 either through incarceration (FY07 average of \$41.21 per inmate, per day or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender, per day or an annual cost of \$887 per offender).

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) 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.

ASSUMPTION (continued)

Officials from the **Department of Social Services (DOS)** did not respond to Oversight's request for fiscal impact. However, in response to a similar proposal from the 2007 session (SB 676, LR # 1063-04), officials from the Children's Division assumed the legislation changes current law so that prenatal substance abuse is subject to prosecution, as such abuse would fall under the definition of child endangerment and criminal child abuse. This will cause information pertaining to persons referred to the Children's Division for services from the Department of Health to be potentially used for prosecution. This may deter clients from voluntarily participating in treatment.

DOS – Children's Division (Division) assumes the legislation would also mandate that if a person is found guilty of a violation of RSMo, 568.050 or 568.060, a juvenile officer "shall" take the child victim into protective custody. This would likely increase the number of children placed in the custody of the Division. The Division currently responds to such concerns by providing Newborn Crisis Assessments. 1,424 (56%) of the 2,551 Newborn Crisis Assessments received in FY 2006 were due to pre-natal substance abuse. This determination is made by medical staff after testing, who then report their concerns to the child abuse and neglect hotline. Such testing would be the basis for the criminal prosecution called for in this bill, and could result in an estimated 1,424 newborns to be placed into protective custody and subsequently placed into the Division's care. Due to the increase in cases there would be a need for additional Children's Service Workers, Child Service Supervisors, and Clerical staff based on the increase in cases. It cannot be determined how many of these assessments would result in convictions; therefore, the Division is unable to determine the effect of this legislation.

DOS estimates the costs of the proposal as follows:

Costs for 1,424 children coming into Foster Care would be \$4,230,072. The methodology is as follows: 1,424 children x \$327 (the traditional maintenance rate of \$227 + \$100 professional parenting fee) x 12 months = \$5,587,776.

There would also be a need for 105 additional FTE:

- 79 additional Children's Service Workers (18 LS1 cases per worker)
- 11 additional Children's Service Supervisors (1 supervisor to 7 workers)
- 15 clerical staff (1 to 6 professional staff)

ASSUMPTION (continued)

Costs for additional FTE would be \$4,732,758:

- \$3,678,082 for Children's Service Workers
(79 x \$30,408PS + 79 x \$16,150 EE)
- \$536,822 for Children's Service Supervisors
(11 x \$32,652PS + 11 x \$16,150 EE)
- \$372,614 for Office Support Assistants
(11 x \$20,724PS + 11 x \$13,150 EE)
- \$145,240 for Senior Office Support Assistants
(4 x 23,160PS + 4 x \$13,150 EE)

DOS assumes the total fiscal impact could be \$8,962,830, should all 1,424 children come into custody. However, it is unknown how many will come into custody. If even 25% come into custody, the impact will exceed \$2,240,708. Therefore, DOS assumes an impact of unknown but greater than \$1,626,754 General Revenue and unknown but greater than \$613,954 Federal Funds.

Oversight assumes, based on information provided by DOS, that DOS would require 25% of the FTE and foster care costs indicated above. Oversight has based the fiscal note on 25% of DOS total fiscal impact of \$8,962,830 and 105 FTE.

Officials from the **Office of Prosecution Services (OPS)** state that in the absence of estimates as to the number of increased cases that would be referred to County Prosecutors for charges because of this proposed legislation, it is difficult to determine if this proposal would have a significant direct fiscal impact on county prosecutors or the Office of Prosecution Services.

OPS assumes, in the absence of such estimates, that there would be an increase in the number of cases referred for prosecution under this proposed law and therefore prosecutors would experience a direct fiscal impact, though it is not possible at this time to estimate the amount of such a fiscal impact.

Oversight assumes the Office of Prosecution Services and county prosecutors could absorb any additional costs incurred as a result of the proposed legislation within existing resources.

ASSUMPTION (continued)

Officials from the **Office of the State Public Defender (SPD)** assume this new crime 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.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs – Department of Social Services</u>			
Personal Service	(More than \$559,385)	(More than \$559,385)	(More than \$559,385)
Equipment and Expense	(More than \$299,611)	(More than \$299,611)	(More than \$299,611)
Foster Care Costs	(More than \$767,758)	(More than \$767,758)	(More than \$767,758)
<u>Total Costs – DOS</u>	(More than <u>\$1,626,754</u>)	(More than <u>\$1,626,754</u>)	(More than <u>\$1,626,754</u>)
FTE Change – DOS	19 FTE	19 FTE	19 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>(More than \$1,726,754)</u>	<u>(More than \$1,726,754)</u>	<u>(More than \$1,726,754)</u>
Estimated Net FTE Change for General Revenue Fund	19 FTE	19 FTE	19 FTE

FEDERAL FUNDS

Costs – Department of Social Services

Personal Service	(More than \$211,118)	(More than \$211,118)	(More than \$211,118)
Equipment and Expense	(More than \$113,077)	(More than \$113,077)	(More than \$113,077)
Foster Care Costs	(More than <u>\$289,760</u>)	(More than <u>\$289,760</u>)	(More than <u>\$289,760</u>)
<u>Total Costs – DOS</u>	(More than <u>\$613,955</u>)	(More than <u>\$613,955</u>)	(More than <u>\$613,955</u>)
FTE Change – DOS	7 FTE	7 FTE	7 FTE

**ESTIMATED NET EFFECT ON
 FEDERAL FUNDS**

	<u>(More than \$613,955)</u>	<u>(More than \$613,955)</u>	<u>(More than \$613,955)</u>
Estimated Net FTE Change for Federal Funds	7 FTE	7 FTE	7 FTE

FISCAL IMPACT - Local Government

FY 2009 (10 Mo.)	FY 2010	FY 2011
<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

The proposal makes it a class C felony for a person to commit child abuse by knowing that she is pregnant and chronically and severely exposing an unborn child to alcohol or a controlled substance during pregnancy and such child, at birth, is demonstrably adversely affected by such exposure.

FISCAL DESCRIPTION (continued)

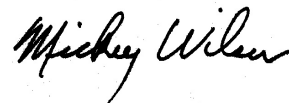
The proposal also makes it a class A misdemeanor for a person to commit child endangerment in the second degree by knowing that she is pregnant and chronically and severely exposing an unborn child to a controlled substance during pregnancy.

If a person pleads guilty to or is found guilty of such offenses, the court shall order a juvenile officer to take the child into protective custody immediately or as soon as reasonably possible after the birth of the child if such child is unborn at the time of the plea or finding of guilt.

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 Corrections
Department of Social Services
Department of Public Safety
 – Missouri State Highway Patrol
 – Director's Office
Office of Prosecution Services
Office of the State Public Defender



Mickey Wilson, CPA
Director
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