

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0849-09
Bill No.: SCS for SB 140
Subject: Crimes and Punishment; Courts; Children and Minors
Type: Original
Date: February 16, 2009

Bill Summary: Modifies provisions relating to criminal nonsupport.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	Up to \$1,450,086	Up to \$1,493,589	Up to \$1,538,396
Total Estimated Net Effect on General Revenue Fund	Up to \$1,450,086	Up to \$1,493,589	Up to \$1,538,396

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 7 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 Mental Health, Department of Labor and Industrial Relations, Department of Revenue, Department of Social Services, Department of Public Safety – Director’s Office**, and the **Office of State Treasurer** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would allow circuit courts to create criminal nonsupport divisions to handle nonviolent criminal nonsupport cases and create a “Criminal Nonsupport Division Coordinating Commission” and a Resources Fund.

The Coordinating Commission and the Resources Fund appear to be set up similarly to the Drug Court Coordinating Commission and Drug Court Resources Fund. These activities are very labor intensive for the courts. Since the legislation is permissive, CTS has no way of knowing how many courts would create the programs. Any significant increase in workload will be reflected in future budget requests.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the language is permissive allowing criminal nonsupport divisions to be established by any circuit court to provide an alternative for the criminal justice system to dispose of cases which stem from criminal nonsupport. DESE has no means to determine any potential impact on fine revenues collected by local governments or the DOR to distribute to schools.

Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Department of Corrections (DOC)** assume the proposal makes modifications to the criminal nonsupport statute by decreasing both the crime criteria and the penalty provisions.

In FY08, DOC had 1,201 admissions for criminal nonsupport as follows: 70.3% received probation, 22.7% received a term-sentence, and 84 received a 120-day sentence. None of these offenders were violent and 7 had a nonsupport prior offense. Taking into consideration the reduction of time served if this bill passed, 254 offenders per each year would not be incarcerated for a potential savings of up to \$1,450,086 per year (254 X \$5,709).

ASSUMPTION (continued)

DOC cannot currently predict the number of new non-commitments which may result from the modifications of the offense(s) outlined in this proposal. An increase in non-commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are not sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will save the corresponding increase in direct offender cost through deferred incarceration (FY08 average of \$15.64 per offender, per day or an annual cost of \$5,709 per inmate). This savings could be offset by the cost for 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) but the exact time periods of supervision are unknown.

In summary, supervision by the DOC through probation instead of incarceration would result in savings to the department and the exact fiscal impact is unknown up to the estimated potential of \$1,450,086 positive impact per year with 3% cumulative annual increase after the first year.

Officials from the **Office of Prosecution Services** assume the proposal would have no measurable fiscal impact the Office of Prosecution Services or county prosecutors.

Officials from the **Office of the State Public Defender (SPD)** did not respond to Oversight's request for fiscal impact. However, in response to a previous version of the proposal (SB 140, LR # 0849-01), officials assumed they could incur a savings due to a small reduction in the number of cases where indigent persons may be offered an Suspended Imposition of Sentence (SIS) or Suspended Execution of Sentence (SES).

Oversight assumes any savings to the Office of the State Public Defender would be small and would have a negligible fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Savings</u> – Department of Corrections			
Decreased incarcerations	\$1,450,086	\$1,493,589	\$1,538,396
<u>Costs</u> – Department of Corrections			
Increased probation costs*	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Up to</u> <u>\$1,450,086</u>	<u>Up to</u> <u>\$1,493,589</u>	<u>Up to</u> <u>\$1,538,396</u>

*Increased Department of Corrections probation costs are not expected to exceed the savings incurred due to decreased incarcerations.

<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

The proposal allows any circuit court to establish a court, for disposition of criminal nonsupport cases. Such court shall have the authority to refer defendants to education, vocational or employment training, substance abuse treatment, or work programs. After successful completion of a court-ordered treatment or training program or commencement of support payments, the defendant may have the charges, petition, or penalty against him or her dismissed, reduced, or modified.

ASSUMPTION (continued)

A ten-member Criminal Nonsupport Courts Coordinating Commission shall be established to coordinate and allocate resources made available through the newly created Criminal Nonsupport Court Resources Fund.

Under this proposal, criminal nonsupport shall be a class A misdemeanor unless the total arrearage is in excess of an aggregate of twelve monthly payments, in which case, it is a class D felony. Currently, the crime is a class D felony if the person owes more than \$5,000 or has failed to pay six months of payments within the last twelve-month period.

If the defendant is placed on probation or parole, he or she may begin payment of current support as well as satisfying the arrearages. If he or she fails to pay, probation or parole may be revoked and an appropriate sentence shall be imposed, unless the defendant proves good cause for failure to pay.

During any period that a nonviolent defendant is incarcerated for criminal nonsupport, the court may, if the defendant is ready, willing, and able to be gainfully employed and except for good cause shown, place the defendant on work release in order to satisfy the defendant's obligation to pay support.

Beginning August 28, 2009, every nonviolent first and second-time offender currently incarcerated for criminal nonsupport, who has not previously been placed on probation or parole, may be considered for parole or work release.

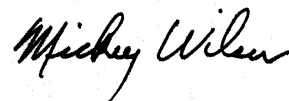
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Mental Health
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety
 – Director’s Office
Office of Prosecution Services
Office of the State Treasurer

NOT RESPONDING

Office of the State Public Defender



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