

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1450-02
Bill No.: SB 320
Subject: Crimes and Punishment; Social Services Department; Attorney General
Type: Original
Date: March 11, 2011

Bill Summary: This proposal modifies provisions relating to domestic violence.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
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 2012	FY 2013	FY 2014
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 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
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 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of the State Treasurer, Department of Public Safety - Highway Patrol** and the **Office of Prosecution Services** each assume the proposal would not have a fiscal impact to their respective agencies.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the enhanced penalties for violating an ex parte order of protection or full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation would be charged as a class D felony.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. 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 competent and effective representation in all its cases.

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

Officials from the **Department of Social Services - Children's Division** state the proposal essentially combines the provisions of HB 505 and HB 504. The changes in this bill would make available protections provided by ex parte and full orders of protection to more child victims of abuse and domestic violence, which could be helpful in assuring safety and developing safety plans in child abuse cases. However, the Children's Division does not anticipate a significant fiscal or programmatic impact.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state this bill proposes to enact various legislative recommendations by the Attorney General's Task Force on Domestic Violence. The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class D felony.

Pursuant to current law, in FY10 there were 12 offenders sentenced for violation of a full protection order with 8 receiving a prison sentence and 4 receiving probation. Expansion of the penalty provisions (when priors exist) due to passage of this bill will have a fiscal impact for the DOC.

Currently, the DOC cannot predict the number of new commitments which may result from the expansion 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 direct offender cost either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. It is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Office of the Secretary of State (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 fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Costs - Department of Corrections</u>			
Incarceration / probation costs for offenders of this proposal	(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	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<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

This act modifies the provisions relating to domestic violence.

DEFINITIONS

This act provides the same definition for "domestic violence" and "family and household member" in various chapters and statutes relating to domestic violence and orders of protection. The definitions sections pertaining to child orders of protection are repealed. Sections 43.545, 452.375, 455.010, 455.200, 455.501, 455.540, 527.290

FISCAL DESCRIPTION (continued)

ALIGNING ADULT AND CHILD ABUSE ORDERS OF PROTECTION

This act also provides consistency relating to adult and child orders of protection, including the definitions for "abuse," "adult," and "child." This act provides that the grounds for issuing ex parte or full orders of protection for both adults and children include stalking. In addition, adult and child orders now both prohibit communicating with the petitioner. This act also now provides for enhanced penalties for violating child orders of protection as with repeated violations of adult orders. Sections 455.010; 455.035; 455.516; 455.520; 455.523; 455.538

JUVENILE COURT JURISDICTION

This act provides juvenile court jurisdiction for respondents to orders of protection under the age of 17. Sections 211.031; 455.035; 455.513

AUTOMATIC ONE-YEAR RENEWAL

The court may, upon a finding that it is in the best interest of the parties, include a provision that any full order of protection for one year shall automatically renew unless the respondent requests a hearing within thirty days of the expiration of the order. Sections 455.040; 455.516

OTHER CHANGES TO ORDERS OF PROTECTION PROCESS

This act authorizes that terms of orders reflect the individual circumstances of parties and allows for a judge to determine if a petitioner's dismissal of an order of protection proceeding is voluntary. Sections 455.050; 455.060; 455.520; 455.523

This act prescribes the types of violations that may result in criminal offenses. Section 455.085

This act prohibits a petitioner from being charged a filing fee in any action relating to adult orders of protection, including motions for contempt seeking to enforce an existing order of protection. Section 455.027

BATTERER INTERVENTION PROGRAMS

In consultation with the statewide domestic violence coalition, the Division of Probation and Parole shall promulgate rules to establish standards and to adopt a credentialing process for any court-ordered Batterer Intervention program. Section 455.549

FISCAL DESCRIPTION (continued)

REPEAT OFFENDERS AND MUNICIPAL OFFENSES

This act limits municipal jurisdiction over offenders who repeatedly commit domestic assault or violate an order of protection. Also, municipal offenses are allowed to be used to enhance the level of criminal offense that is charged by the prosecutor. Sections 455.085; 455.538; 565.074

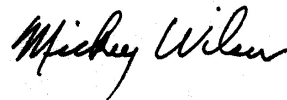
SERVICES TO VICTIMS FUND

This act amends the Services to Victims Fund to provide that public or private agencies shall use no more than ten percent of any funds received for administrative purposes. Section 595.100

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 Attorney General
Office of the State Courts Administrator
Department of Social Services
Department of Public Safety
Office of the State Public Defender
Department of Corrections
Office of Prosecution Services



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Director
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