

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4531-01
Bill No.: SB 693
Subject: Courts; Civil and Criminal Procedure; Department of Health and Senior Services; Property, Real and Personal; Estate, Wills, and Trusts; Guardians; Elderly; Mental Health
Type: Original
Date: February 19, 2018

Bill Summary: This proposal modifies procedures in guardianship and conservator proceedings for incapacitated or disabled persons.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(\$55,241 to \$67,641)	(\$67,701 to \$82,581)	(\$69,148 to \$84,028)
Total Estimated Net Effect on General Revenue	(\$55,241 to \$67,641)	(\$67,701 to \$82,581)	(\$69,148 to \$84,028)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>Other</u> 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 2019	FY 2020	FY 2021
Federal Funds*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

*Distribution increases (decreases) net to zero.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Social Services (DSS)** assumes the following:

CD

The Children's Division, through the Division of Legal Services (DLS) pursues the appointment of an adult guardian on behalf of children who will be accessing Department of Mental Health services after being released from our custody. No fiscal impact to CD.

FSD

This bill requires the court to determine if an individual's choice of guardian is deficient. It does not affect any provisions relating to eligibility for any programs the Family Support Division (FSD) administers. Therefore, there is no fiscal impact to FSD.

DLS

DLS provides legal counsel and representation of the Children's Division. In cases in which a child is ageing out of care and is incapacitated or disabled, DLS handles court proceedings to ensure the child is given a guardianship and a conservatorship, if needed.

In 2016, DLS handled 206 guardianships. The cost of publication for each case would be approximately \$300. This means the total cost of publication would be approximately \$61,800. In 2017, DLS handled 82 guardianships; the total cost of publication would be approximately \$24,600.

In summary, the DSS would have the following cost range, split between GR and Federal:

FY19 - \$20,500 to \$51,500 (10 months)

FY20 - \$24,600 to \$61,800

FY21 - \$24,600 to \$61,800

Oversight inquired of the DSS. The DSS does not budget for publication costs currently because it was not required. This proposal would require the DSS to publish each case.

Officials at the **Department of Mental Health (DMH)** estimate that approximately 100 guardianship petitions will be initiated annually beginning in 2018. It is estimated that a guardianship petition, on average, involves five or more individuals who are required to be notified. Notices for guardianship is currently provided by regular mail with prepaid postage - estimated current cost is \$250 (100 cases X \$.50 stamp X 5 notifications). This bill changes how

ASSUMPTION (continued)

notice must be made to relevant persons in a guardian or conservator petition, providing that service must be made by certified mail, addressed to the person to be notified, with all postage charges prepaid, and return receipt requested. The requirements of this legislation would increase notification costs to \$3,350 (100 cases X \$6.70 estimated mail expenses X 5 notifications) - an increase of \$3,100.

Requirements contained in this bill would also necessitate that a notice be published in a newspaper having general circulation within the county in which the court is held. The eastern region of Missouri covers the bulk of total guardianships, so a fair estimate may be based upon publication in the St. Louis Post Dispatch. Basic publishing of a notice cost \$562. Notices for 100 cases at \$562 totals \$56,200.

Fiscal Impact to the DMH resulting from this legislation is estimated at \$59,300 (\$3,100 + \$56,200) In summary, the DMH estimates the following - \$47,041 in FY19, \$57,861 in FY20 and \$59,308 in FY21. This estimate also assumes postage rates will increase each fiscal year.

Oversight inquired of the DMH on the number of petitions that were done in FY2015 through FY2017. The following is their response:

FY15 - 95 petitions
FY16 - 83 petitions
FY17 - 95 petitions

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

Officials at the **Office of the State Courts Administrator** and the **Department of Health and Senior Services** each assume no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE			
<u>Costs</u> - DSS - Publication of each guardianship case	(\$8,200 to \$20,600)	(\$9,840 to \$24,720)	(\$9,840 to \$24,720)
<u>Costs</u> - DMH - Publication of guardianship petitions in local newspapers	<u>(Up to \$47,041)</u>	<u>(Up to \$57,861)</u>	<u>(Up to \$59,308)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$55,241 to \$67,641)</u>	<u>(\$67,701 to \$82,581)</u>	<u>(\$69,148 to \$84,028)</u>
FEDERAL FUNDS			
<u>Income</u> - DSS - program reimbursements	\$12,300 to \$30,900	\$14,760 to \$37,080	\$14,760 to \$37,080
<u>Costs</u> - DSS - Publication of each guardianship case	(\$12,300 to <u>\$30,900</u>)	(\$14,760 to <u>\$37,080</u>)	(\$14,760 to <u>\$37,080</u>)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<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 provides that in guardianship and conservator proceedings, a court must determine that the incapacitated or disabled person's choice, spouse, or family member is deficient in his or her ability to serve prior to selecting a third person as a guardian of the incapacitated person or conservator of a disabled person. If there is a claim that a person is deficient because of the living conditions, then the court shall require an investigation by the Department of Health and Senior Services of the living conditions. A court must also make a determination that the living conditions are dangerous or unsanitary prior to making the finding that a person is deficient for the purposes of guardianship.

The act also states that, prior to a hearing on a petition for the appointment of a guardian or conservator, notice must be provided to certain parties by certified mail and published in a newspaper of general circulation in the county in which the hearing is held.

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

Department of Social Services
Department of Mental Health
Office of the Attorney General
Office of the State Courts Administrator
Department of Health and Senior Services

Ross Strobe



Acting Director
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