

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5457-01
Bill No.: SB 806
Subject: Estate, Wills, and Trusts; Guardians; County Officials; Children and Minors;
 Courts; Civil Procedure
Type: Original
Date: January 23, 2018

Bill Summary: This proposal modifies various provisions regarding guardianship and conservator proceedings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(\$112,021 to \$371,221)	(\$115,973 to \$375,173)	(\$116,276 to \$375,476)
Total Estimated Net Effect on General Revenue	(\$112,021 to \$371,221)	(\$115,973 to \$375,173)	(\$116,276 to \$375,476)

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 7 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
General Revenue	.4 FTE	.4 FTE	.4 FTE
Federal Funds	.6 FTE	.6 FTE	.6 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

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)** assume the following:

Children's Division (CD)

No fiscal impact to CD.

Family Services Division (FSD)

FSD currently has policies and processes in place regarding guardianship and conservators. This legislation does not alter any provisions related to the treatment of guardians and conservators in the determination of eligibility for any public assistance programs FSD administers. Therefore, there is no fiscal impact to FSD.

Division of Legal Services (DLS)

Most children in CD care who are entering adult guardianships have no appropriate relatives to care for them, and so are appointed a public administrator. However, under this language, DLS would have to prove relatives are inappropriate. DLS would have increased costs due to the need to produce evidence, including experts, to show parents are inappropriate guardians. DLS anticipates this will increase costs by approximately \$1,500 - \$6,000 in most cases. In 2016, DLS handled 206 guardianships. Therefore, the anticipated additional expenses could increase by \$309,000 (\$1,500 x 206 cases) to \$1,236,000 (\$6,000 x 206 cases). In 2017, DLS handled 82 guardianships. Therefore, the anticipated additional expenses could increase by \$123,000 (\$1,500 x 82 cases) to \$492,000 (\$6,000 x 82 cases).

In addition, DLS also anticipates that each case will require approximately 4-8 additional hours per case. This is a total of 824 to 1,648 hours, or the equivalent of 1 additional FTE attorney.

In summary, costs for 1 additional FTE attorney for DSS are as follows:

	<u>GR</u>	<u>Federal</u>	<u>Total</u>
FY19	(\$25,621)	(\$38,431)	(\$64,052) 10 months
FY20	(\$29,573)	(\$44,361)	(\$73,934)
FY21	(\$29,876)	(\$44,813)	(\$74,689)

ASSUMPTION (continued)

Oversight inquired DSS about the additional expenditures from the DLS for litigation expenses. DSS states that those expenditures should also be included in their fiscal impact. DSS is in the process of updating their fiscal impact statement. DSS will be using an average of FY16 and FY17 guardianships for a total of 144 guardianships. This would generate litigation expenses of \$216,000 to \$864,000 (144 *\$1,500 to 144 * \$6,000) per year.

Assuming a 40% GR and 60% Federal split and then adding this range to the costs for the new FTE Attorney, the total cost to DSS would be as follows:

	<u>GR</u>	<u>Federal</u>
FY19	(\$112,021 to \$371,221)	(\$168,031 to \$556,831)
FY20	(\$115,973 to \$375,173)	(\$173,961 to \$562,761)
FY21	(\$116,276 to \$375,476)	(\$174,413 to \$563,213)

Officials at the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials at the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Health and Senior Services** and the **Department of Mental Health** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **Callaway County Commission** and the **Franklin County Public Administrator's Office** each assume no fiscal impact to their respective entities from this proposal.

Officials from the following **counties**: Andrew, Atchison, Audrain, Barry, Benton, Bollinger, Boone, Buchanan, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Clinton, Cole, Cooper, Davies, Dekalb, Dent, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Platte, Pulaski, Scott, St. Charles, St. Louis, St. Francois, Taney, Wayne, and Worth did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE			
<u>Cost - DSS</u>			
Personal Service	(\$13,988)	(\$16,953)	(\$17,123)
Fringe Benefits	(\$7,750)	(\$9,350)	(\$9,401)
Equipment and Expense	(\$3,883)	(\$3,270)	(\$3,352)
Litigation Expenses	(\$86,400 to <u>\$345,600</u>)	(86,400 to <u>\$345,600</u>)	(\$86,400 to <u>\$345,600</u>)
Total Costs - DSS	(\$112,021 to <u>\$371,221</u>)	(\$115,973 to <u>\$375,173</u>)	(\$116,276 to <u>\$375,476</u>)
FTE Change - DSS	.4 FTE	.4 FTE	.4 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	(\$112,021 to <u>\$371,221</u>)	(\$115,973 to <u>\$375,173</u>)	(\$116,276 to <u>\$375,476</u>)
Estimated Net FTE Change for General Revenue Fund	.4 FTE	.4 FTE	.4 FTE
FEDERAL FUNDS			
<u>Income - DSS</u>			
Increase in program reimbursements	\$168,031 to \$556,831	\$173,961 to \$562,761	\$174,413 to \$563,213
<u>Cost - DSS</u>			
Personal Service	(\$20,982)	(\$25,430)	(\$25,684)
Fringe Benefits	(\$11,626)	(\$14,026)	(\$14,101)
Equipment and Expense	(\$5,823)	(\$4,905)	(\$5,028)
Litigation Expenses	(\$129,600 to <u>\$518,400</u>)	(\$129,600 to <u>\$518,400</u>)	(\$129,600 to <u>\$518,400</u>)
Total Cost - DSS	(\$168,031 to <u>\$556,831</u>)	(\$173,961 to <u>\$562,761</u>)	(\$174,413 to <u>\$563,213</u>)
FTE Change - DSS	.6 FTE	.6 FTE	.6 FTE
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change for Federal Funds	.6 FTE	.6 FTE	.6 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<u>FISCAL IMPACT - Small Business</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act modifies various provisions regarding guardianship and conservator proceedings. Under current law in guardianship and conservator proceedings the court is to consider the suitability of a list of persons for appointment. This act provides that such persons are listed in the order of priority. The court may not appoint an unrelated third party unless there is no relative suitable and willing to serve, or if the appointment of a relative or a nominee is not in the best interest of the incapacitated or disabled person.

Notice of a petition to appoint a guardian or conservator for a minor must be served to the person or entity nominated to serve.

When the petition for the appointment of a guardian or conservator is filed based on grounds other than minority and a public administrator is nominated, the public administrator shall receive certain documents such as the petition and medical opinions and shall have an opportunity to be heard at the hearing.

Currently, a conservator has sixty days to make final settlement of the conservatorship. The act makes an exception to the sixty day requirement for when the protectoree has died and the court has ordered that no letters of administration are to be granted.

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
Office of the State Courts Administrator
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Callaway County Commission
Franklin County Public Administrator's Office

Ross Strobe

A handwritten signature in black ink, appearing to read "Ross Strobe", with a stylized flourish at the end.

Acting Director
January 23, 2018