

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5457-01  
Bill No.: Perfected SB 806  
Subject: Estate, Wills, and Trusts; Guardians; County Officials; Children and Minors;  
 Courts; Civil Procedure  
Type: Original  
Date: February 27, 2018

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(\$97,621 to \$313,621)	(\$115,973 to \$375,173)	(\$116,276 to \$375,476)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$97,621 to \$313,621)</b>	<b>(\$115,973 to \$375,173)</b>	<b>(\$116,276 to \$375,476)</b>

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

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 7 pages.

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

\*Distribution increases (decreases) net to zero.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	.4 FTE	.4 FTE	.4 FTE
Federal Funds	.6 FTE	.6 FTE	.6 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>

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

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

## 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)

The additional expenditures from the DLS for litigation expenses would be as follows:

	<u>GR</u>	<u>Federal</u>
FY19	(\$ 72,000 to \$288,000)	(\$108,000 to \$432,000)
FY20	(\$ 86,400 to \$345,600)	(\$129,600 to \$518,400)
FY21	(\$ 86,400 to \$345,600)	(\$129,600 to \$518,400)

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
<b>GENERAL REVENUE</b>			
<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)
	(\$72,000 to	(\$86,400 to	(\$86,400 to
Litigation Expenses	<u>\$288,000)</u>	<u>\$345,600)</u>	<u>\$345,600)</u>
	(\$97,621 to	(\$115,973 to	(\$116,276 to
<u>Total Costs - DSS</u>	<u>\$313,621)</u>	<u>\$375,173)</u>	<u>\$375,476)</u>
FTE Change - DSS	.4 FTE	.4 FTE	.4 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$97,621 to \$313,621)</u></b>	<b><u>(\$115,973 to \$375,173)</u></b>	<b><u>(\$116,276 to \$375,476)</u></b>
Estimated Net FTE Change for General Revenue Fund	.4 FTE	.4 FTE	.4 FTE
<b>FEDERAL FUNDS</b>			
<u>Income - DSS</u>			
	\$146,431 to	\$173,961 to	\$174,413 to
Increase in program reimbursements	\$470,431	\$562,761	\$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)
	(\$108,000 to	(\$129,600 to	(\$129,600 to
Litigation Expenses	<u>\$432,000)</u>	<u>\$518,400)</u>	<u>\$518,400)</u>
	(\$146,431 to	(\$173,961 to	(\$174,413 to
<u>Total Cost - DSS</u>	<u>\$470,431)</u>	<u>\$562,761)</u>	<u>\$563,213)</u>
FTE Change - DSS	.6 FTE	.6 FTE	.6 FTE
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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 Strope



Acting Director  
February 27, 2018