

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5457-05
Bill No.: CCS for HCS for SB 806
Subject: Estate, Wills, and Trusts; Guardians; County Officials, Children and Minors, Courts, Civil Procedure, Medicaid/MO HealthNet
Type: Original
Date: May 15, 2018

Bill Summary: This proposal modifies provisions regarding when a deceased person owes money to the state and guardianship and conservator proceedings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
Total Estimated Net Effect on General Revenue	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown

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 8 pages.

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

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 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§§473.397, 473.398 - Claims against an estate.

Oversight assumes the inclusion of “Debts for medical assistance owed to the state of Missouri under section 473.398” as the number 6 priority could possibly result in additional revenue to the state. Oversight assumes these claims are currently within the current number 9 priority “All other claims not barred by section 473.360.” Therefore, Oversight will reflect an unknown additional amount of revenue from moving up in priority.

Oversight also assumes this could possibly reduce the amount collected by the state from the current number 7 priority “Debts and taxes due the state of Missouri, any county, or any political subdivision of the state of Missouri” if the reduced priority results in reduced collections.

Oversight assumes since the state now has a higher priority than the current number 7 priority “Expenses of the last sickness, wages of servants, claims for medicine and medical attendance during the last sickness, and the reasonable cost of a tombstone”, the net impact to the state would be positive.

Oversight will assume collections into the General Revenue Fund.

§§473.730, 473.770, 473.771, 475.010, 475.016, 475.060, 475.061, 475.062, 475.078, 475.079, 475.080, 475.082, 475.083, 475.094, 475.120, 475.125, 475.130, 475.145, 475.230, 475.270, 475.276, 475.341, 475.342, 475.343, 475.355, 475.357, 475.361, 630.005

In response to a previous version, officials at **St. Louis County** assumed a cost of \$200,000 annually from this proposal.

Oversight inquired St. Louis County further regarding their response; however, St. Louis County has not elaborated on the potential costs. Therefore, Oversight will assume there could be some impact on county public administrators and will reflect a potential cost as \$0 or (Unknown).

ASSUMPTION (continued)

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.

In response to a previous version, officials at the **Office of the Attorney General (AGO)** assumed 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 **Department of Social Services** assume the Family Services Division (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.

Officials at the **Department of Public Safety's Veterans' Commission**, the **Department of Revenue**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Health and Senior Services**, the **Department of Mental Health** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

In response to a previous version, officials at the **Office of the State Public Defender** assumed no fiscal impact from this proposal.

In response to a previous version, officials at **Boone County** assumed no fiscal impact from this proposal.

§§475.050, 475.070, 475.290, 475.320

Officials at the **Department of Social Services (DSS)** assume there is no fiscal impact from this proposal.

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.

ASSUMPTION (continued)

In response to a previous version, officials at the **Callaway County Commission** and the **Franklin County Public Administrator's Office** each assumed no fiscal impact to their respective entities from this proposal.

§475.075

Officials at the **Department of Social Services** and the **Department of Mental Health** each assume there is no fiscal impact from this proposal.

In response to a previous version, officials at the **Office of the Attorney General (AGO)** assumed 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.

§475.084

Officials at the **Office of the State Courts Administrator**, the **Department of Health and Senior Services**, the **Department of Mental Health** and the **Department of Social 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			
Income - §473.397 - new priority for claims against an estate - for Debts for medical assistance owed to the state of Missouri under Section 473.398	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
Loss - §473.397 - lower priority for debts and taxes due the state	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
CITIES AND COUNTIES			
<u>Loss</u> - \$473.397 - lower priority for debts and taxes due counties or political subdivisions	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Cost</u> - potential additional costs for public administrators (§§473.730, 473.770, 473.771, 475.010, 475.016, 475.060, 475.061, 475.062, 475.078, 475.079, 475.080, 475.082, 475.083, 475.094, 475.120, 475.125, 475.130, 475.145, 475.230, 475.270, 475.276, 475.322, 475.341, 475.342, 475.343, 475.344, 475.355, 475.357, 475.361, 630.005)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO CITIES AND COUNTIES	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

§§473.730, 473.770, 473.771, 475.010, 475.016, 475.060, 475.061, 475.062, 475.078, 475.079, 475.080, 475.082, 475.083, 475.094, 475.120, 475.125, 475.130, 475.145, 475.230, 475.270, 475.276, 475.322, 475.341, 475.342, 475.343, 475.344, 475.355, 475.357, 475.361, 630.005

This bill changes and adds certain duties and reporting requirements for guardians and conservators. It also specifies that existing guardians and conservators have one year from August 28, 2018, to meet any reporting requirements that change as of August 28, 2018. The bill also gives the court authority to, as part of its review and in its discretion, contact the Department of Health and Senior Services or other appropriate agencies to investigate the conduct of the guardian.

§§475.050, 475.070, 475.290, 475.320

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

FISCAL DESCRIPTION (continued)

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.

§475.075

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
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
May 15, 2018