

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0886-07
Bill No.: CCS for SS for SCS for SB 230
Subject: Attorneys; Children and Minors; Civil Procedure; Courts; Disabilities; Domestic Relations; Family Law; Guardians
Type: Original
Date: May 13, 2019

Bill Summary: This proposal modifies provisions relating to judicial proceedings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Tort Victims Compensation Fund	Unknown, greater than \$100,000 to (Unknown, greater than \$100,000)	Unknown, greater than \$100,000 to (Unknown, greater than \$100,000)	Unknown, greater than \$100,000 to (Unknown, greater than \$100,000)
Total Estimated Net Effect on Other State Funds	Unknown, greater than \$100,000 to (Unknown, greater than \$100,000)	Unknown, greater than \$100,000 to (Unknown, greater than \$100,000)	Unknown, greater than \$100,000 to (Unknown, greater than \$100,000)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 2020	FY 2021	FY 2022
Counties	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints of less than 4 hours, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented his fiscal note on the best current information that we have or on information regarding a similar bill(s). 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.

§§209.625 and 472.010 - ABLE Act

In response to a previous version, officials at the **Office of Administration's Division of Budget and Planning** assume the following:

- Has no direct fiscal impact.
- Has no direct impact on general or total state revenues.
- Will not impact the calculation pursuant to Article X, Sec. 18(e).

In response to a previous version, officials at the **Department of Mental Health**, the **Department of Social Services** and the **Department of Insurance, Financial Institutions and Professional Registration** each assumed no fiscal impact to their respective agencies from this proposal.

In response to similar legislation from this year, SB 426, officials at the **Office of the State Courts Administrator**, the **Department of Health and Senior Services**, the **Office of the Attorney General** and the **Department of Economic Development** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight has no information to the contrary. Therefore, Oversight will reflect a zero fiscal impact for these agencies for these sections.

§475.035 - Venue for the appointment of guardian or conservator

In response to a previous version, officials at the **Department of Social Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Office of the Attorney General**, the **Office of the State Courts Administrator** and the **Department of Mental Health** each assumed no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies for this section.

§475.115 - Death, resignation or removal of a guardian or conservator

In response to a previous version, officials at the **Office of the State Courts Administrator**, the **Office of the Attorney General**, the **Department of Social Services**, the **Department of Insurance, Financial Institutions and Professional Registration** and the **Department of Mental Health** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies for this section.

§§476.001 & 600.042 - State Public Defender district offices

In response to similar legislation from this year, HB 868, **Oversight** notes that the **Office of State Courts Administrator (OSCA)** and **State Public Defender's Office (SPD)** have stated the proposal would not have a direct fiscal impact on their organizations.

Oversight notes in 2013, HB 215 was Truly Agreed To and Finally Passed which included language that required the realignment of district offices to coincide with existing judicial circuits. The Missouri State Public Defender District Office Realignment Plan can be found at <https://publicdefender.mo.gov/about-mspd>.

In response to the previous legislation, Oversight notes the SPD has 33 trial district offices serving 45 judicial circuits, 114 counties and the City of St. Louis. By statute, office space for these district offices is provided and paid for by the counties served by that district office, each county paying a proportion of the total rent and utilities according to the comparative population.

Each time the geographic boundaries of a defender office's area of service are changed, the leases which the counties have signed and the respective payment obligations of all the counties involved, are also impacted. Counties pulling out of a particular office's service area are no longer receiving services from that office but are obligated under the signed lease to pay a proportion of the cost of the lease of that office. If the lease could be renegotiated, the remaining counties would be required to pick up a larger portion of the lease even though that was never planned for in their budgets. Even where the switch in coverage areas does not change the number of counties (i.e. one is removed and a different one is added) the amounts owed by each county can and usually do shift. The obligation of the counties is allocated by population, so the removal of a more populous county and its replacement with a lesser populated county shifts a higher percentage of the rent costs for the public defender office to the other counties in the district.

ASSUMPTION (continued)

Only then can it be determined which offices need to move, the costs of those moves, which offices are closing, where are new offices opening, what the counties will agree to pay for in terms of office space adjustments and where are the gaps that SPD may have to step in and cover to keep an office from becoming homeless, as has happened before.

The duration of leases also vary by district office all around the state -- i.e. they do not all expire at one time making it impossible to conveniently rearrange all into new geographic boundaries and then sign new leases. While the lease in two of the counties that make up one-half of a judicial circuit may expire this year, the lease for two other counties that need to move into that circuit may not expire for five years. This makes transitioning offices to congruency with judicial circuits a very complicated task. Counties are not willing to pay for overlapping leases, which means that leases entered into by the counties will have to be broken. Each lease generally has a fiscal year end out clause if the legislature no longer funds the public defender office -- or, as in this case, so drastically reduces the size of the offices that office space changes will need to be made. However, not only does that often cost county commissioners good will with their local constituents who are the landlords for the building, there is also a cost penalty involved. Most leases amortize the costs of renovation and build-out over the life of the lease. If the lease is terminated early, those build-out costs become immediately payable in full by the counties who signed the leases. This is without regard to whether the counties have budgeted for such large payments to come due all at once.

Because of the change in law in 2013, counties now include language in the lease to accommodate a potential change in a county's assigned area.

By removing the provisions in §600.042, some counties may experience a savings in lease costs, other counties may experience an increase, and still others may not be impacted. Therefore, **Oversight** will reflect the impact to counties as \$0 to unknown costs/unknown savings.

Oversight notes the plan is to be implemented by December 31, 2021.

§508.010 - Joinder and Venue

Officials at the **Department of Corrections (DOC)** assume an unknown savings from this section of the proposal. It could reduce the potential pay-out on punitive damages for medical or for other reasons, should the DOC get sued.

In response to a previous version, officials at the **Department of Labor and Industrial Relations** and the **Department of Insurance, Financial Institutions and Professional Registration** each assumed no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

In response to similar legislation from this year, Perfected SS #2 for SB 7, officials at the **Office of the State Courts Administrator**, the **Office of the Attorney General** and the **Office of the State Public Defender** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Oversight notes according to Section 537.675, “any party receiving a judgment final for purposes of appeal for punitive damages in any case filed in any division of any circuit court of the state of Missouri shall notify the attorney general of the state of Missouri of such award, except for actions claiming improper health care pursuant to chapter 538. The state of Missouri shall have a lien for deposit into the tort victims' compensation fund to the extent of fifty percent of the punitive damage final judgment which shall attach in any such case after deducting attorney's fees and expenses.”

Oversight notes the Tort Victims' Compensation Fund has had court awards of the following amounts over the last ten years:

Fiscal Year	Total Awards
2008	\$36,558.98
2009	\$3,253,480.92
2010	\$3,316,710.05
2011	\$538,742.81
2012	\$144,224.19
2013	\$535,548.19
2014	\$61,172.30
2015	\$439,779.46
2016	\$23,349.62
2017	\$488,831.72
2018	\$8,648,291.13

Due to the uncertainty of the impact of this bill (including the recent Missouri Supreme Court ruling), **Oversight** will reflect a negative unknown to a positive unknown that is greater than \$100,000 on either side for this proposal to the Tort Victims Compensation Fund.

ASSUMPTION (continued)

Bill as a Whole

Officials at the **Office of the State Treasurer**, the **Department of Revenue**, the **Department of Higher Education**, the **Office of Prosecution Services** and the **State Tax Commission** each assume no fiscal impact to their respective agencies from this proposal.

Except what is already mentioned above, officials at the **DOC** assume no additional fiscal impacts from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

In response to a previous version, officials at the **Office of the Secretary of State (SOS)** state 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 SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
TORT VICTIMS COMPENSATION FUND			
<u>Savings</u> - DOC - less punitive damages paid out (§508.010)	Unknown	Unknown	Unknown
<u>Savings</u> - in the potential amount of punitive damages awarded (§508.010)	Unknown, greater than \$100,000	Unknown, greater than \$100,000	Unknown, greater than \$100,000
<u>Loss</u> - in the potential amount of punitive damages awarded (§508.010)	(Unknown, greater than <u>\$100,000</u>)	(Unknown, greater than <u>\$100,000</u>)	(Unknown, greater than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON THE TORT VICTIMS COMPENSATION FUND	Unknown, greater than \$100,000 to (Unknown, greater than <u>\$100,000</u>)	Unknown, greater than \$100,000 to (Unknown, greater than <u>\$100,000</u>)	Unknown, greater than \$100,000 to (Unknown, greater than <u>\$100,000</u>)
<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
COUNTIES			
<u>Savings</u> - Certain counties - (§600.042) Decrease in operational costs including rent expense from removal of SPD plans to establish district offices	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Costs</u> - Certain counties - (§600.042) Increase in operational costs - including rent and lease from removal of SPD plans to establish district offices	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON COUNTIES	<u>\$0 or Unknown to (Unknown)</u>	<u>\$0 or Unknown to (Unknown)</u>	<u>\$0 or Unknown to (Unknown)</u>

FISCAL IMPACT - Small Business

Certain small businesses involved in torts could be impacted by this proposal.

FISCAL DESCRIPTION

§§476.001 & 600.042 - State Public Defender district offices

This bill removes a provision requiring the Director of the Public Defender's Office to prepare a plan to establish district offices, which would coincide with existing judicial circuits.

§508.010 - Joinder and venue

This act modifies provisions of civil procedure regarding joinder and venue.

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 State Courts Administrator
Office of the State Public Defender
Office of the Attorney General
Department of Social Services
Department of Insurance, Financial Institutions and Professional Registration
Office of Prosecution Services
Department of Mental Health
Office of Administration
 Division of Budget and Planning

SOURCES OF INFORMATION (continued)

Department of Health and Senior Services
Department of Labor and Industrial Relations
Office of the State Treasurer
Department of Economic Development
Department of Higher Education
Department of Revenue
State Tax Commission
Office of the Secretary of State



Kyle Rieman
Director
May 13, 2019

Ross Strobe
Assistant Director
May 13, 2019