

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1373-01
Bill No.: HB 643
Subject: Children and Minors; Domestic Relations; Crimes and Punishment
Type: Original
Date: March 14, 2011

Bill Summary: This proposal allows for abatement of certain support arrearages in criminal nonsupport cases.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	Unknown	Unknown	Unknown
Total Estimated Net Effect on General Revenue Fund	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Child Support Enforcement Collections	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator, Department of Public Safety - Missouri Highway Patrol, Office of Prosecution Services** and the **Office of the State Public Defender** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state this bill proposes to allow for abatement of certain support arrearages in criminal nonsupport cases. The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for an existent class D felony.

In FY09, the criminal nonsupport laws changed (SB 140) with positive impact expected for the DOC in the number of offenders. Due to lag in the court system, effects of this savings is just beginning to show up in the reduced numbers of these offenders coming to DOC for this offense(s). Reinstating a dollar amount for arrearage calculations as proposed in this bill has the potential to once again increase the number of offenders for the DOC. Prior to passage of SB 140, effective FY09, the DOC received 247 term sentenced offenders that year, with an average time served of about 7 months. This calculates to about 37 offenders in prison per annum and does not include 120-day shock incarcerants or those sentenced to probation.

Currently, the DOC cannot predict the number of new commitments which may result from the modification of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. It is estimated that potential costs will be in excess of \$100,000 per year.

Officials from the **Department of Social Services (DOS)** state Subsection 568.040.5 changes the threshold for felony criminal nonsupport from an aggregate of twelve monthly payments due under any order of support to an arrearage of ten thousand dollars (\$10,000). This section would

ASSUMPTION (continued)

reduce the number of criminal felony non-support charges that could be filed by the prosecutors and therefore the effectiveness of this enforcement remedy may be compromised. The collection performance of the agency may be negatively impacted.

DOS states this may impact revenue to the Child Support Enforcement Collections (CSEC) fund. In order to maintain Child Support Operations at their current level, additional General Revenue would be needed to replace the lost CSEC funds. However, the impact to the CSEC fund is unknown at this time. Therefore impact is unknown.

Oversight assumes the changes to Section 568.040.5 may result in fewer nonsupport cases being charged as a class D felony instead of a misdemeanor. Oversight assumes the current threshold of twelve monthly payments of nonsupport could be reached sooner than the proposed new threshold of \$10,000. Therefore, Oversight assumes there could be fewer nonsupport cases being charged as a felony, resulting in a potential lower cost to the Department of Corrections. Therefore, Oversight will assume a positive fiscal impact of this part of the proposal

Oversight will also range the fiscal impact to the Child Support Enforcement Collection fund from a positive Unknown to a negative Unknown based upon DOS's response.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Savings</u> - Department of Corrections			
Incarceration / Probation & Parole for offenders convicted of crimes changed in the bill. Threshold of a felony raised from 12 months of payments to \$10,000	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - State Government</u>	FY 2012	FY 2013	FY 2014
(continued)	(10 Mo.)		

**CHILD SUPPORT ENFORCEMENT
 COLLECTIONS FUND**

<u>Income or Loss</u> - Collections potentially impacted by changes within HB 643	Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>
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ESTIMATED NET EFFECT TO THE CHILD SUPPORT ENFORCEMENT COLLECTIONS FUND	Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>	Unknown to <u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2012	FY 2013	FY 2014
	(10 Mo.)		
	<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

Currently, criminal nonsupport is a class D felony if the total arrearage is in excess of 12 monthly payments due under any order of support. This bill specifies that criminal nonsupport will be a class D felony if the total arrearage is in excess of \$10,000.

The bill also specifies that good cause for knowingly failing to provide adequate child support includes any reduction or abatement of a support obligation for the period of time from the filing of a modification until it is awarded if a reduction or abatement of the support obligation is applied to that time period.

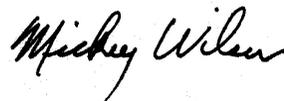
FISCAL DESCRIPTION (continued)

If a person pays all current child support obligations and all periodic payments toward satisfaction of arrears for 12 consecutive months, the court must order an abatement of 25% of the total arrearage existing at the time he or she entered into repayment for the arrearage. If a person pays all current support obligations and all periodic payments toward satisfaction of arrears for an additional 24 consecutive months, the court must abate any remaining arrearage and may expunge the person's record of a criminal nonsupport conviction

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 Public Safety
Office of Prosecution Services
Office of the State Public Defender
Office of the State Courts Administrator
Department of Corrections



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Director
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