

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5342-01
Bill No.: HB 1342
Subject: Civil Procedure; Courts
Type: Original
Date: January 23, 2012

Bill Summary: This proposal requires courts to award prevailing defendants their costs and attorneys' fees.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 4 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 2013	FY 2014	FY 2015
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Public Defender** and the **Office of the State Courts Administrator** assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the Attorney General (AGO)** assume that any potential costs of the proposal could be absorbed with existing resources, but may seek a future appropriation if there is a significant increase in referrals.

In response to a similar proposal from this year (SB 613), officials from the **Office of Prosecution Services (OPS)** stated there would be no measurable fiscal impact on the OPS. However, this legislation as written will have a negative fiscal impact on local prosecuting attorneys' offices relating to civil actions in which the prosecuting attorney is or represents the plaintiff. Criminal Activity Forfeiture Act (CAFA) cases are civil in nature. So are injunctions, which prosecutors are authorized to file in numerous instances (e.g. drug houses, illegal businesses and the like). A prosecuting attorney may make a just and reasoned decision not to pursue one of the civil cases after filing, but under this legislation, would be subject to the defendant's attorneys fees if they dismiss the case.

Oversight assumes this proposal would not have a fiscal impact on the state. Oversight will reflect a \$0 or potential unknown costs to local prosecuting attorneys based upon OPS' response.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
LOCAL POLITICAL SUBDIVISIONS			
<u>Costs</u> - potential cost to local prosecuting attorney's offices	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>

FISCAL IMPACT - Small Business

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

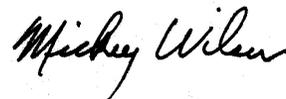
FISCAL DESCRIPTION

The proposed legislation appears to have no fiscal impact.

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
Attorney General's Office
Office of Prosecution Services



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Director
January 23, 2012