

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4545-01
Bill No.: HB 1795
Subject: Children and Minors; Health Care; Family Services Division; Department of Social Services
Type: Original
Date: April 14, 2008

Bill Summary: This legislation creates the crime of endangering the welfare of an unborn child and allows for physician referral and documentation to be used in criminal prosecutions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Unknown Greater than \$3,801,534)	(Unknown Greater than \$4,021,942)	(Unknown Greater than \$4,127,965)
Total Estimated Net Effect on General Revenue Fund	(Unknown Greater than \$3,801,534)	(Unknown Greater than \$4,021,942)	(Unknown Greater than \$4,127,965)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

*Income and costs of \$1,396,998 in FY09, \$1,480,182 in FY10 and \$1,520,196 in FY11 would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	65.34 FTE	65.34 FTE	65.34 FTE
Federal	24.66 FTE	24.66 FTE	24.66 FTE
Total Estimated Net Effect on FTE	90 FTE	90 FTE	90 FTE

☐ 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 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services, Missouri State Highway Patrol, Office of the State Courts Administrator** and the **Department of Public Safety** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Mental Health (DMH)** state while the provisions of this proposed legislation permits the use of documentation related to reports of children exposed to substance abuse to be used in criminal proceedings, the Department and its providers will be governed by the prohibitions stipulated in the federal regulations. Therefore, no fiscal impact upon the DMH is expected.

Officials from the **Office of the State Public Defender (SPD)** state for purposes of the proposal, the SPD cannot assume existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed newly defined crime of endangering the welfare of an unborn child as defined in section 188.015, RSMo, if such person ingests, injects, consumes, inhales, or otherwise uses heroin, cocaine, lysergic acid diethylamide (LSD), or methamphetamine while such person is pregnant and such person knows or reasonably should have known that such person was pregnant. Endangering the welfare of an unborn child for a first offense is a class C felony. For a second or subsequent offense endangering the welfare of an unborn child is a class B felony.

While the number of new cases may be too few or uncertain to request additional funding for this specific proposal, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all of the SPD cases.

Oversight assumes the SPD could absorb the additional caseload that may result from this proposal within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget request.

Officials from the **Office of Prosecution Services** state that in the absence of estimates as to the number of increased cases that would be referred to County Prosecutors for charges because of this proposed legislation, it is difficult to determine if this proposal would have a significant direct fiscal impact on county prosecutors or the OPS.

ASSUMPTION (continued)

It is presently assumed, in the absence of such estimates, that there would be an increase in the number of cases referred for prosecution under this proposed law and therefore prosecutors would experience a direct fiscal impact, though it is not possible at this time to estimate the amount of such a fiscal impact.

Officials from the **Department of Corrections (DOC)** state the DOC, cannot predict the number of new commitments which may result from the creation 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 proposal, the DOC will incur a corresponding increase in operational cost either through incarceration (FY07 average of \$41.21 per inmate, per day or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender, per day or an annual cost of \$887 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Department of Social Services** state data was provided on how many calls were received by the Child Abuse/Neglect Hotline in FY 07 (105,170) and how many of those calls were screened out (48,624). It is estimated 50% of the calls screened out (not taken as reports for investigation) pertained to drug involved households. It is further estimated 50% were specifically related to methamphetamines, cocaine, heroine or LSD. This allowed for an approximate calculation of 12,000 reports expected. Based on a caseload of 15 investigations per month per worker, 67 additional Children's Service Workers would be required to handle the increase in reports. Based on a 7 staff per supervisor ratio, 10 Children's Service Supervisors would be needed. Also additional clerical staff would be required based on a 6 professional staff per clerical ratio creating a need for 13 clerical FTE. In total, there would be a need for 90 additional FTE at a cost of \$4,653,333.

ASSUMPTION (continued)

In addition to the staffing cost, there will be a substantial impact on Family Centered Services, Alternative Care Cases and systems updates; however the fiscal impact is unknown at this time. However, if even 1% of the 12,000 reports caused a single child to come into care, the cost to Foster Care would be \$534,240. The methodology is as follows: $12,000 \times 1\% = 120$ children, $120 \text{ children} \times \371 (the traditional maintenance rate of \$271 + \$100 professional parenting fee) $\times 12 \text{ months} = \$534,240$. For 10 months of FY 09 this would be \$445,200.

The combined amount of the staffing cost of \$4,653,333 and the costs of placing 1% of the children in foster care of \$445,200 is \$5,098,533. Therefore the Children's Division is submitting a fiscal impact of unknown but greater than \$3,701,535 GR and unknown but greater than \$1,396,998 FF.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Costs - Office of Prosecution Services</u>			
Program Costs	(Unknown)	(Unknown)	(Unknown)
<u>Costs - Department of Corrections</u>			
Incarceration/probation costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs - Department of Social Services</u>			
Personal Service	(\$1,694,195)	(\$2,094,863)	(\$2,157,709)
Fringe Benefits	(\$749,173)	(\$926,349)	(\$954,139)
Equipment and Expense	(\$934,951)	(\$512,872)	(\$528,259)
Program Cost	(Unknown)	(Unknown)	(Unknown)
	<u>Greater than</u> \$323,215)	<u>Greater than</u> \$387,858)	<u>Greater than</u> \$387,858)
Total Costs - DOS	(Unknown)	(Unknown)	(Unknown)
	<u>Greater than</u> \$3,701,534)	<u>Greater than</u> \$3,921,942)	<u>Greater than</u> \$4,027,965)
FTE Change - DOS	65.34 FTE	65.34 FTE	65.34 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u> <u>Greater than</u> <u>\$3,801,534)</u>	<u>(Unknown)</u> <u>Greater than</u> <u>\$4,021,942)</u>	<u>(Unknown)</u> <u>Greater than</u> <u>\$4,127,965)</u>
Estimated Net FTE Change for General Revenue Fund	65.34 FTE	65.34 FTE	65.34 FTE

FEDERAL FUNDS

Income - Department of Social Services

Federal Assistance	Unknown but Greater than \$1,396,998	Unknown but Greater than \$1,480,182	Unknown but Greater than \$1,520,196
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Costs - Department of Social Services

Personal Service	(\$639,407)	(\$790,623)	(\$814,342)
Fringe Benefits	(\$282,746)	(\$349,614)	(\$360,102)
Equipment and Expense	(\$352,860)	(\$193,563)	(\$199,370)
Program Cost	(Unknown but Greater than \$121,985)	(Unknown but Greater than \$146,382)	(Unknown but Greater than \$146,382)

Total Costs - DOS	(Unknown but Greater than \$1,396,998)	(Unknown but Greater than \$1,480,182)	(Unknown but Greater than \$1,520,196)
FTE Change - DOS	24.66 FTE	24.66 FTE	24.66 FTE

ESTIMATED NET EFFECT ON FEDERAL FUNDS

\$0 \$0 \$0

Estimated Net FTE Change for Federal Funds	24.66 FTE	24.66 FTE	24.66 FTE
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<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<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

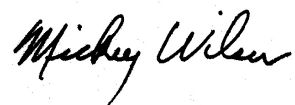
The proposed legislation creates the crime of endangering the welfare of an unborn child if a person ingests, injects, consumes, inhales, or otherwise uses heroin, cocaine, LSD, or methamphetamine while she is pregnant and knows or reasonably should have known that she was pregnant. Endangering the welfare of an unborn child is a class C felony for the first offense and a class B felony for any subsequent offense. Any person who uses, produces, prepares, sells, transports, tests, or analyzes heroin, cocaine, or LSD in the presence or residence of a person younger than 17 years of age will be guilty of endangering the welfare of a child in the first degree.

Any healthcare provider who has reason to believe that a pregnant woman has used heroin, cocaine, LSD, or methamphetamine may make a report to the appropriate law enforcement agency.

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
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Department of Public Safety
Missouri State Highway Patrol
Office of Prosecution Services
Office of the State Public Defender

A handwritten signature in black ink, appearing to read "Mickey Wilson". The signature is written in a cursive, flowing style.

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Mickey Wilson, CPA
Director
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