

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5127-01
Bill No.: HB 2322
Subject: Children and Minors; Family Law; Courts
Type: Original
Date: April 14, 2008

Bill Summary: The proposal allows a person against whom a judgment of paternity and support has been entered to petition the circuit court to set aside the judgment in the interest of justice based on certain facts.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	\$0 or (More than \$100,000)	\$0 or (More than \$100,000)	\$0 or (More than \$100,000)
Total Estimated Net Effect on General Revenue Fund	\$0 or (More than \$100,000)	\$0 or (More than \$100,000)	\$0 or (More than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Child Support Enforcement	\$0 or (More than \$34,000)	\$0 or (More than \$34,000)	\$0 or (More than \$34,000)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (More than \$34,000)	\$0 or (More than \$34,000)	\$0 or (More than \$34,000)

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Federal	\$0 or (More than \$66,000)	\$0 or (More than \$66,000)	\$0 or (More than \$66,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (More than \$66,000)	\$0 or (More than \$66,000)	\$0 or (More than \$66,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
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 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services** assume the proposal would have no fiscal impact on their agency.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Social Services (DOS) – Family Support Division (FSD)** assume the proposed legislation will allow the court to set aside a previous judgment of paternity and support and extinguish any existing child support arrearage when a properly completed genetic test shows that the party ordered to pay support is not the child's father.

In actions where the court grants relief by setting aside a previous judgment of paternity and support, the FSD would be required to cease enforcement services on the case and begin action to again establish paternity for the child(ren) in question, assuming the custodial parent/custodian continues to receive the FSD's services. The FSD believes that these activities can be completed with existing staff.

The proposed legislation provides that any existing child support arrearages shall be extinguished in cases where the court grants relief from the paternity judgment and support order. An undeterminable amount of past-due support assigned to the state for periods when children received public assistance would no longer be due the state in such actions.

The proposed legislation does not address whether relief from the paternity judgment will create a cause of action to recover support that was previously paid under the order. If such actions are allowed, the FSD will have an unknown liability for support that was collected and/or retained by the FSD.

If the state was determined to be liable for support collected and/or retained by the FSD, the amount of liability would be unknown. Therefore, the fiscal impact to FSD is as follows:

ASSUMPTION (continued)

- a. For the collections that were retained by the division, the liability incurred would be:
 - 1) Unknown greater than \$34,000 Child Support Enforcement (CSEC) Fund*; and
 - 2) Unknown greater than \$66,000 Federal Funds.
- b. For the collections that were collected and passed on to families, the liability incurred would be unknown greater than \$100,000 General Revenue.
- c. The total impact is:
 - 1) Unknown greater than \$100,000 General Revenue;
 - 2) Unknown greater than \$34,000 CSEC; and
 - 3) Unknown greater than \$66,000 Federal Funds.

Total impact on all funds is unknown greater than \$200,000

* Depending on the amount of lost CSEC, the DOS may need to request General Revenue to replace lost CSEC Funds. CSEC Funds are currently fully utilized to operate the child support program every year. Any significant loss of CSEC would have to be replaced by General Revenue to continue the current level of operation of the child support program.

Oversight assumes it is unknown whether the state would be liable for support collected and/or retained by the Department of Social Services. Therefore, Oversight has reflected the fiscal impact as \$0 or (Unknown).

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Costs – Department of Social Services</u>			
Liability for distributed child support collections	<u>\$0 or (More than \$100,000)</u>	<u>\$0 or (More than \$100,000)</u>	<u>\$0 or (More than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 or (More than \$100,000)</u>	<u>\$0 or (More than \$100,000)</u>	<u>\$0 or (More than \$100,000)</u>

FISCAL IMPACT - State Government
 (continued)

FY 2009
 (10 Mo.)

FY 2010

FY 2011

**CHILD SUPPORT ENFORCEMENT
 FUND**

Costs – Department of Social Services
 Liability for retained child support
 collections

\$0 or (More
than \$34,000)

\$0 or (More
than \$34,000)

\$0 or (More
than \$34,000)

**ESTIMATED NET EFFECT ON
 CHILD SUPPORT ENFORCEMENT
 FUND**

\$0 or (More
than \$34,000)

\$0 or (More
than \$34,000)

\$0 or (More
than \$34,000)

FEDERAL FUNDS

Costs – Department of Social Services
 Liability for retained child support
 collections

\$0 or (More
than \$66,000)

\$0 or (More
than \$66,000)

\$0 or (More
than \$66,000)

**ESTIMATED NET EFFECT ON
 FEDERAL FUNDS**

\$0 or (More
than \$66,000)

\$0 or (More
than \$66,000)

\$0 or (More
than \$66,000)

FISCAL IMPACT - Local Government

FY 2009
 (10 Mo.)

FY 2010

FY 2011

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

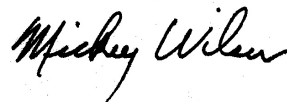
FISCAL DESCRIPTION

The proposed legislation allows a person against whom a judgment of paternity and support has been entered to petition the circuit court to set aside the judgment. A court determination of non-paternity requires the cancellation of the child support order and arrears and the modification of the child's birth certificate accordingly. An action for paternity determination may be brought at any time.

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 Attorney General
Office of State Courts Administrator
Department of Health and Senior Services
Department of Social Services

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 14, 2008