

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1285-02
Bill No.: HCS for HJR 16
Subject: Children and Minors; Constitutional Amendments; Family Law
Type: Original
Date: March 12, 2009

Bill Summary: This legislation proposes a constitutional amendment guaranteeing fundamental parental rights.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
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 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and costs of approximately Unknown in FY10, FY11 and FY12 would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
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 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 34:

Officials from the **Department of Health and Senior Services, Department of Revenue, Department of Natural Resources, Office of Administration-Administrative Hearing Commission, Department of Higher Education, Department of Public Safety, Department of Economic Development, Office of the State Courts Administrator, Department of Labor and Industrial Relations** and the **Department of Insurance, Financial Institutions & Professional Registration** each assume the proposal would have no fiscal impact on their respective agencies.

In response to a previous version of this proposal, officials from the **Department of Agriculture, Department of Highways and Transportation** and the **Department of Corrections** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Mental Health (DMH)** assume nothing in the legislation would create an obligation or requirement for the DMH that would result in a fiscal impact.

In response to a previous version of this proposal, officials from the **Department of Elementary and Secondary Education** assume it will be difficult to show any fiscal impact from this change in the Missouri Constitution. By definition, a parent enrolling a child in a public school is consenting to the district educating that child. Application of district policies and procedures stems from that consent. The state's compulsory attendance law allows the parent the option of public, private, parochial, parish and home schools in proving for school attendance.

The real question will be if parents attempt to use this provision in an effort to block or change school policies after enrollment. It is impossible to anticipate how or if the law will be used in that manner or the cost to school districts in that circumstance. On its face there are no direct costs to school districts.

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

Officials from the **Department of Social Services (DSS)** state the legislation is a proposed constitutional amendment, which provides that "parents and legal guardians have a natural and fundamental right to direct the care, education, and upbringing of their children, and that no

ASSUMPTION (continued)

government action shall burden, abridge, or hinder this natural, fundamental right unless it is the least restrictive means of furthering that compelling government interest."

The language of the proposal that parents have a natural and fundamental right to direct the care, education and upbringing of their children is already the law in Missouri, so this will not have an impact. However the remaining language may impact every law, policy, legal case and procedure involving the relationship of minors and governmental action. Given the sweeping and broad language of the proposed constitutional amendment it is impossible to determine the fiscal impact of the language on DSS until it is specifically interpreted by the courts.

It is unclear whether the courts will apply the language requiring proof of a compelling government interest and least restrictive means to each individual case, or whether the language sets up a general measure for challenging the constitutionality of statutes and governmental policies and regulations. If the language is to be applied on a case by case basis then government entities such as the Children's Division and Juvenile Officers may be required in each case to prove the government's compelling interest and that the actions taken are the least restrictive means of furthering the interest. If that is the case then the cost of juvenile court proceedings, Termination of Parental Rights cases, status cases and delinquency cases will increase significantly. This may require DSS and Juvenile Officers to retain counsel to handle the constitutional issues in all cases. This will have a substantial fiscal impact.

DSS assumes it is impossible to estimate the fiscal impact with current information. The assumptions will depend on how the language of the proposed constitutional amendment is interpreted by the Court. Therefore, the fiscal impact is an Unknown cost.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Costs - Department Social Services</u>			
Program Costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FEDERAL FUNDS

Income - Department of Social Services

Federal Assistance	Unknown	Unknown	Unknown
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Costs - Department of Social Services

Program Costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON FEDERAL FUNDS

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Local Government

FY 2010 (10 Mo.)	FY 2011	FY 2012
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

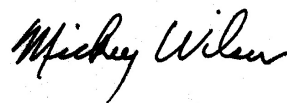
Section 34:

The proposed legislation upon voter approval, this proposed constitutional amendment guarantees a parent or legal guardian the right to care, educate, and raise his or her children without governmental hindrance unless there is a compelling governmental interest.

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 Agriculture
Department of Higher Education
Office of Administration-Administrative Hearing Commission
Department of Economic Development
Department of Elementary and Secondary Education
Department of Highways and Transportation
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety
Office of the Attorney General
Office of the State Courts Administrator



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Director
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