

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3936-05
Bill No.: HCS for HB 1377
Subject: Children and Minors; Public Assistance; Department of Social Services
Type: Original
Date: January 19, 2010

Bill Summary: This legislation requires the Department of Social Services to test applicants for or recipients of Temporary Assistance for Needy Families benefits for the illegal use of controlled substances.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Unknown but Greater than \$2,113,158)	(Unknown but Greater than \$3,639,756)	(Unknown but Greater than \$3,816,751)
Total Estimated Net Effect on General Revenue Fund	(Unknown but Greater than \$2,113,158)	(Unknown but Greater than \$3,639,756)	(Unknown but Greater than \$3,816,751)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Federal	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and costs would net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	5.92 FTE	5.92 FTE	5.92 FTE
Federal	3.08 FTE	3.08 FTE	3.08 FTE
Total Estimated Net Effect on FTE	9 FTE	9 FTE	9 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 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 208.027:

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

In response to a previous version of this proposal, officials from the **Missouri House of Representatives** assume the proposal would have no fiscal impact on their agency.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Mental Health (DMH)** states the proposed legislation requires the Department of Social Services (DSS) to refer applicants who test positive for the use of a controlled substance to an appropriate substance abuse treatment program approved by the Division of Alcohol and Drug Abuse. DMH assumes that it will treat the applicant or recipient and also pay for the services.

DMH is currently utilizing all current treatment capacity. A significant cost would be incurred if DMH were to be required to treat all referred applicants/recipients. The Division does not know the number of TANF clients that will test positive for drugs nor the number of those that test positive that will present for treatment. Treatment costs per person (based on FY09 data) in a Primary Recovery (General Revenue) program is \$1,081. Treatment costs per person in a

ASSUMPTION (continued)

CSTAR program is \$3,194 (\$1,144 General Revenue and \$2,050 Federal). If only an additional 100 persons were treated, it would cost between \$108,100 and \$114,400. Therefore, the fiscal impact is estimated as unknown to greater than \$100,000 for GR and Federal Funds.

Oversight notes that states can earn the federal medical assistance percentage (FMAP) on Medicaid program expenditures.

Officials from the **Office of the Attorney General (AGO)** responds that the Department of Social Services (DSS) estimates that the proposal would result in an additional 1,700 administrative hearings, and that approximately 10% of those hearings then receive judicial review in circuit court. AGO assumes it would need an additional 1.5 Assistant Attorney General I and .5 Legal Secretary to handle the increased in caseload. If there is a significant increase in claims over time, the AGO may seek an additional appropriation to adequately represent DSS.

Officials from the **Department of Social Services-Human Resources** states DSS already covers mandated reporting situations (child/elderly abuse and suspected abuse or neglect of a "vulnerable person" under the custody, care or control of the Department of Mental Health) in our Work Rules Policy (2-115). Should this legislation be enacted, DSS would revise this policy to include its provisions. No fiscal impact is anticipated regarding the implementation and enforcement of the policy.

Officials from the **Department of Social Services-Division of Legal Services (DSS/DLS)** states that currently there are approximately 43,715 families consisting of approximately 112,602 individuals receiving Temporary Assistance benefits. Additionally, there are approximately 6,240 applications per month (this number does not reflect how many are new applications and how many are reapplications).

This legislation targets applicants or recipients "who are eligible for employment". The statistics referenced above do not reflect this additional criteria. Regarding the controlled substance drug testing; assuming that 10% of this number is adversely impacted over 4,370 people will be subject to testing with regard to recipients and approximately 620 per month with regard to applicants). This figure is based on the number of families receiving benefits as opposed to the number of individuals as the legislation applies to work-eligible recipients or applicants. The way the proposed legislation is written the Family Support Division cannot declare an applicant or recipient ineligible until after an administrative hearing; this will likely result in a high percentage of hearings.

ASSUMPTION (continued)

Assuming 40% of the individuals subject to testing object, this would result in a minimum of approximately 1,700 additional hearings annually (based on recipients alone). Regarding applicants, there is the potential for an additional 248 hearings per month. With current staff levels this increase could not be absorbed. Additional staff (five hearing officers and two support staff) would have to be hired so additional space would have to be provided. This is based on the assumption that the hearing officers hold approximately 900 hearings per year. These numbers could be lower depending on how the provision requiring that the applicant or recipient be eligible for employment is interpreted.

Officials from the **Department of Social Services-Family Support Division (FSD)** assume the FSD would be responsible for drug screening all work-eligible applicants and recipients for TANF benefits, and test those that were determined to engage in illegal use of a controlled substance based on the screening. The FSD would also test applicants and recipients when there is reasonable cause that they are engaging in illegal use of a controlled substance as a result of information obtained by means other than a screening. The FSD expects to procure a private vendor to administer its drug testing program. At a minimum, the contractor would provide the following services: collection of samples, testing, transmitting results, program evaluation, and retention of urine samples.

The FSD has no way to determine how many of those screened will be tested and of those tested, will test positive and complete a drug treatment program. It is also difficult to calculate how many applicants and recipients would be tested as a result of information obtained by means other than a screening.

Therefore, the Division is providing a range of unknown up to the maximum.

In September 2009, there were 38,012 adult recipients of TANF benefits. 7,716 are exempt from work participation. 30,296 adults are considered work-eligible and would be required to submit to a drug test. $(38,012 - 7,716 = 30,296)$. Of the 7,716 who are exempt, 2,501 are temporarily disabled, 4,557 have a child under age one, 119 are excluded because of domestic violence, 27 are over age 60, and 512 are two parent families that meet a work exemption.

Based on information provided by the Department of Corrections and Office of Administration, the average cost to drug test a TANF recipient would be \$55.

The yearly cost for FSD to test all work-eligible recipients is \$1,666,280 $(30,296 \times \$55 = \$1,666,280)$.

ASSUMPTION (continued)

The FSD is also responsible for testing all work-eligible applicants. The FSD received an average of 6,459 applications from July 2009 through September 2009. 24% of the applications are estimated to be exempt from work participation. 76% of the applications are estimated to have a work-eligible individual. ($6,459 \times 76\% = 4,909$).

The average monthly cost for FSD to test all work-eligible applicants is: \$269,995 ($4,909 \times \$55 = \$269,995$).

The average yearly cost for FSD to test all work-eligible applicants is: \$3,239,940 ($\$269,995 \times 12 = \$3,239,940$).

This legislation would also require testing of applicants and recipients who the Department has reasonable cause to believe engages in a controlled substance obtained by means other than the screening. This would encompass the 7,716 who are work exempt.

The yearly cost for FSD to test these recipients and applicants is \$424,380. ($7,716 \times \$55 = \$424,380$)

The overall maximum annual cost for FSD to drug test work-eligible recipients and applicants and work exempt recipients and applicants is: \$5,330,600 ($\$1,666,280 + \$3,239,940 + \$424,380 = \$5,330,600$).

There would be FAMIS programming costs of \$24,000.

Existing FSD staff would be able to manage the increase in job duty as a result of this legislation.

Since the legislation mentions two dates: By July 1, 2011, the Department shall promulgate rules to develop the screening and testing provisions; and by September 30, 2010, the Department will be required to report anyone suspected of illegal use of a controlled substance. For this fiscal note, the Department is assuming a start date for drug testing the earlier of the two dates. However, if the intent is for drug testing not to start until July 1, 2011, then the fiscal impact would not start until FY2012.

ASSUMPTION (continued)

Per a similar proposal from last year (HB30), **Oversight** assumes a savings might be realized based on discussions with DSS. The average TANF grant is \$292 for a family of three (a parent and two children). If the parent tested positive and was declared ineligible for TANF benefits the grant would decrease to \$234 and a \$58 savings would be realized. Based on the 7.9% statistic used by the DMH in 2008, resulting in 3,391 parents (42,921 X 7.9%), Oversight believes the DSS could have a saving of \$0 to \$2,360,136 (\$58 X 3,391 X 12).

Officials from the **Missouri Senate** have not responded to Oversight's request for fiscal information.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Savings - Department of Social Services*</u>			
Reduced TANF Payments	\$0 to \$2,360,136	\$0 to \$2,360,136	\$0 to \$2,360,136
<u>Costs - Department of Mental Health</u>	(Greater than \$100,000)	(Greater than \$100,000)	(Greater than \$100,000)
Program Cost			
<u>Costs - Office of the Attorney General</u>			
Personal Services	(\$66,306)	(\$81,955)	(\$84,413)
Fringe Benefits	(\$34,771)	(\$42,977)	(\$44,266)
Equipment and Expense	(\$33,841)	(\$38,523)	(\$39,678)
<u>Total Costs - AGO</u>	<u>(\$134,918)</u>	<u>(\$163,455)</u>	<u>(\$168,357)</u>
FTE Change - AGO	2 FTE	2 FTE	2 FTE
<u>Costs - Department of Social Services</u>			
Personal Service-DLS	(\$115,222)	(\$142,471)	(\$146,745)
Fringe Benefits-DLS	(\$60,422)	(\$74,712)	(\$76,953)
Equipment and Expense-DLS	(\$40,782)	(\$28,737)	(\$29,599)
<u>Total Costs - DSS-DLS</u>	<u>(\$216,426)</u>	<u>(\$245,920)</u>	<u>(\$253,297)</u>
FTE Change - DSS-DLS	3.92 FTE	3.92 FTE	3.92 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2011 (10 Mo.)	FY 2012	FY 2013
<u>Costs - Department of Social Services</u>			
FSD Drug Testing for Applicants	(\$2,429,955)	(\$3,337,138)	(\$3,437,252)
FSD Drug Testing for Recipients	(\$1,249,710)	(\$1,716,268)	(\$1,767,756)
FSD Work Exempt Recipients	(\$318,285)	(\$437,111)	(\$450,225)
FSD FAMIS Programming Costs	<u>(\$24,000)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs - DSS-FSD</u>	<u>(\$4,021,950)</u>	<u>(\$5,490,517)</u>	<u>(\$5,655,233)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*	<u>(Unknown but Greater than \$2,113,158)</u>	<u>(Unknown but Greater than \$3,639,756)</u>	<u>(Unknown but Greater than \$3,816,751)</u>
Estimated Net FTE Change for General Revenue Fund	5.92 FTE	5.92 FTE	5.92 FTE

*Oversight used \$1,935,576 savings in the net effect total.

FEDERAL FUNDS

<u>Income - Department of Mental Health</u>			
Federal Assistance	Greater than \$100,000	Greater than \$100,000	Greater than \$100,000
<u>Income - Department of Social Services- DLS</u>			
Federal Assistance	\$170,049	\$193,222	\$199,019
<u>Costs - Department of Mental Health</u>			
Program Costs	(Greater than \$100,000)	(Greater than \$100,000)	(Greater than \$100,000)

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2010 (10 Mo.)	FY 2011	FY 2012
<u>Costs - Department of Social Services-</u> DLS			
Personal Service	(\$90,531)	(\$111,941)	(\$115,300)
Fringe Benefits	(\$47,475)	(\$58,702)	(\$60,463)
Equipment and Expense	<u>(\$32,043)</u>	<u>(\$22,579)</u>	<u>(\$23,256)</u>
<u>Total Costs - DSS-DLS</u>	<u>(\$170,049)</u>	<u>(\$193,222)</u>	<u>(\$199,019)</u>
FTE Change - DSS-DLS	3.08 FTE	3.08 FTE	3.08 FTE

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change for Federal Fund	3.08 FTE	3.08 FTE	3.08 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Most of the drugs testing facilities in the major metropolitan areas are small businesses and this legislation could have a significant positive impact on the number of drug tests each of those businesses would complete.

If the testing facilities were part of the state government, there would be no impact on small businesses.

FISCAL DESCRIPTION

Section 208.027:

This legislation requires the Department of Social Services to develop a program to screen and test work-eligible applicants for or work-eligible recipients of the Temporary Assistance for Needy Families (TANF) Program benefits who the Department has reasonable cause to believe,

FISCAL DESCRIPTION (continued)

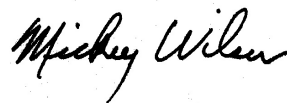
based on the screening, engage in the illegal use of controlled substances. Applicants or recipients who test positive for the use of a controlled substance which has not been prescribed by a licensed health care provider will, after an administrative hearing by the Department be declared ineligible for TANF benefits for one year beginning on the date of the administrative hearing decision and will be referred to an appropriate substance abuse treatment program approved by the Division of Alcohol and Drug Abuse within the Department of Mental Health. Any member of a household which includes a person who has been declared ineligible for TANF benefits, if otherwise eligible, will continue to receive protective or vendor payments through a third-party payee.

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 Mental Health
Department of Health and Senior Services
Department of Social Services
Office of the Secretary of State
Office of the Attorney General
Missouri House of Representatives

Not Responding: Missouri Senate



Mickey Wilson, CPA
Director
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