

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0049-04
Bill No.: HCS for HB 42
Subject: Courts, Juvenile; Attorneys
Type: Original
Date: March 12, 2019

Bill Summary: This proposal modifies provisions relating to a child's right to counsel.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	\$0	\$0	\$0
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons will be represented in additional cases. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016, \$2 out of \$38.0 million in FY 2017, and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources. However, **Oversight** assumes the SPD will not incur a material amount of additional expenditures as a result of the changes in this proposal. Therefore, Oversight will not reflect a fiscal impact to the SPD.

Officials at the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials at the **Office of Prosecution Services** assume no measurable impact from this proposal.

Officials at the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Social Services** and the **Department of Corrections** each assume no fiscal impact to their respective agencies from this proposal.

Oversight notes that the Office of Prosecution Services, the Department of Health and Senior Services, the Department of Mental Health, the Department of Social Services and the Department of Corrections each have [stated](#) the proposal would not have a direct fiscal impact on their [organization](#). Oversight does not have [any](#) information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<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

This bill specifies that, if a child waives his or her right to counsel, such waiver shall be made in open court and be recorded and in writing. In determining whether a child has knowingly, intelligently, and voluntarily waived his or her right to counsel, the court shall look to the totality of the circumstances, as specified in the bill. If a child waives his or her right to counsel, the waiver shall only apply to that particular proceeding.

The bill also specifies certain proceedings in which a child's right to counsel shall not be waived.

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 Public Defender
Department of Health and Senior Services
Office of the State Courts Administrator
Office of Prosecution Services
Department of Mental Health
Department of Social Services
Department of Corrections



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March 12, 2019

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