

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4380-02  
Bill No.: HCS for HB 1765  
Subject: Children and Minors; Family Law; Domestic Relations; Marriage and Divorce  
Type: Original  
Date: March 11, 2020

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Bill Summary: This proposal establishes a rebuttable presumption that child custody arrangements that award equal parenting time are in the best interest of the child.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>          |            |            |            |
|--------------------------------------------------------------|------------|------------|------------|
| FUND AFFECTED                                                | FY 2021    | FY 2022    | FY 2023    |
|                                                              |            |            |            |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>                      |            |            |            |
|-----------------------------------------------------------------------|------------|------------|------------|
| FUND AFFECTED                                                         | FY 2021    | FY 2022    | FY 2023    |
|                                                                       |            |            |            |
|                                                                       |            |            |            |
| <b>Total Estimated<br/>Net Effect on <u>Other</u><br/>State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                          |            |            |            |
|-----------------------------------------------------------------------|------------|------------|------------|
| FUND AFFECTED                                                         | FY 2021    | FY 2022    | FY 2023    |
|                                                                       |            |            |            |
|                                                                       |            |            |            |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>Federal Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

| <b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b> |          |          |          |
|-----------------------------------------------------------|----------|----------|----------|
| FUND AFFECTED                                             | FY 2021  | FY 2022  | FY 2023  |
|                                                           |          |          |          |
|                                                           |          |          |          |
| <b>Total Estimated<br/>Net Effect on<br/>FTE</b>          | <b>0</b> | <b>0</b> | <b>0</b> |

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

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |            |            |            |
|--------------------------------------------|------------|------------|------------|
| FUND AFFECTED                              | FY 2021    | FY 2022    | FY 2023    |
| <b>Local Government</b>                    | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials at the **Department of Social Services (DSS)** assume the following:

#### **Child Support (CS):**

Proposed subsection 452.375.2 requires courts to award parents equal parenting time (i.e., 50/50 visitation) unless the presumption is rebutted by preponderance of the evidence. The Family Support Division (FSD) child support assumes that if this bill passes most judicial orders will include equal parenting time for each parent. The directions for the Civil Procedure Form No. 14 allow a 34% visitation credit for a parent who has 181-183 overnight visits with his/her child (i.e., 50/50 visitation) up to 50% credit if the court determines the credit is unjust and inappropriate. A 50% visitation credit may result in a \$0 obligation. Today, courts may enter no parenting time up to equal parenting time. Likewise, the court may order no credit for visitation or credit up to 50% based on the circumstances of the party. Awarding equal parenting time in all orders and giving obligors a 34% to 50% visitation credit may reduce the child support obligations in Missouri judicial orders.

Since support amounts are assigned to the state when a parent and child receive Temporary Assistance for Needy Families (TANF), and all new orders may be reduced by a 34% up to 50% visitation credit, the state's ability to recoup TANF payments will be reduced. The state retains approximately 35% of all assigned collections in the Child Support Enforcement (CSEC) Fund; a reduction in the ability to recoup TANF expenditures will reduce the amount of assigned collections deposited into the CSEC fund that help fund the Child Support program.

In state fiscal year (SFY) 2019, there were 4,351 new judicial support orders entered in the Missouri Automated Child Support System (MACSS). FSD's caseload for state fiscal year 2019 was 314,942 cases of which 16,517 (or 5%) were TANF cases. Therefore, of the 4,351 new judicial orders entered in MACSS in SFY 2019, FSD assumes 5% or 218 were on TANF cases and the judicial current support obligations were assigned to the state. The total assigned support that accrued on those orders for SFY 2019 was \$252,404 with an average annual accrual per order amount of \$1,158 (\$252,404/218).

Assuming that the number of TANF recipients remains static, FSD estimates the amount of support assigned to the state for the recoupment of TANF benefits would be reduced by up to \$252,404 per year which results in \$85,817 (\$252,404 x 34% (The Federal FMAP rate)) less that the state could potentially collect and retain as CSEC revenues.

ASSUMPTION (continued)

The impact on CSEC revenues will be a range of \$0 (no change in the obligation) up to \$85,817 (assuming equal parenting time results in a \$0 obligation). This funding will need a general revenue pickup to keep the Child Support program operational. Therefore, the total fiscal impact to FSD is \$0 to \$85,817. Until the FY 21 budget is final, the DSS cannot identify specific funding sources.

**Oversight** considers the fiscal impact estimated by DSS to be more of a potential indirect fiscal impact, depending upon the judgements of the courts, the current custody agreements of the parents, and the financial status of the parties. Therefore, Oversight will assume that the proposal will not have a direct fiscal impact on the state.

Officials at the **Office of the State Courts Administrator** and the **Department of Health and Senior Services** each assume no fiscal impact to their respective agencies from this proposal.

**Oversight** notes that the Office of the State Courts Administrator and the Department of Health and Senior Services have stated the proposal would not have a direct fiscal impact on their organizations. 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 2021<br>(10 Mo.) | FY 2022    | FY 2023    |
|-----------------------------------------|---------------------|------------|------------|
|                                         | <u>\$0</u>          | <u>\$0</u> | <u>\$0</u> |
| <u>FISCAL IMPACT - Local Government</u> | FY 2021<br>(10 Mo.) | FY 2022    | FY 2023    |
|                                         | <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

Currently, the court must determine custody that is in the best interest of the child. This bill establishes a rebuttable presumption, except in paternity actions, that an award of equal or approximately equal parenting time is in the best interest of the child, unless a preponderance of the evidence exists, as specified in these provisions. The presumption can be rebutted if the court determines that the parents have reached an agreement on all issues related to custody or if the court finds that a pattern of domestic violence has occurred.

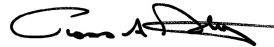
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Department of Social Services  
Office of the State Courts Administrator  
Department of Health and Senior Services



Julie Morff  
Director  
March 11, 2020



Ross Strobe  
Assistant Director  
March 11, 2020