

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0303-03
Bill No.: CCS for SCS for SB 83
Subject: Attorneys; Children and Minors; Courts; Domestic Relations; Family Law;
Property, Real and Personal
Type: Original
Date: May 15, 2019

Bill Summary: This proposal modifies provisions relating to court proceedings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 8 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
Counties	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints of less than 2 hours, Oversight was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§452.377 - Child Relocation

In response to a previous version, officials at the **Department of Social Services** and the **Office of the State Courts Administrator** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for this section.

§452.402 - Grandparent Visitation

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

In response to similar legislation SCS for HCS for HB 700, officials at the **Office of the State Courts Administrator** and the **Department of Mental Health** each assumed no fiscal impact to their respective agencies from this proposal.

In response to a previous version, officials at the **Department of Social Services** assumed no fiscal impact from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for this section.

§§476.001 & 600.042 - Public Defenders

In response to similar legislation, HB 868, **Oversight** notes that the **Office of State Courts Administrator (OSCA)** and **State Public Defender's Office (SPD)** have stated the proposal would not have a direct fiscal impact on their organizations.

ASSUMPTION (continued)

Oversight notes in 2013, HB 215 was Truly Agreed To and Finally Passed which included language that required the realignment of district offices to coincide with existing judicial circuits. The Missouri State Public Defender District Office Realignment Plan can be found at <https://publicdefender.mo.gov/about-mspd>.

In response to the 2013 legislation, Oversight notes the SPD has 33 trial district offices serving 45 judicial circuits, 114 counties and the City of St. Louis. By statute, office space for these district offices is provided and paid for by the counties served by that district office, each county paying a proportion of the total rent and utilities according to the comparative population.

Each time the geographic boundaries of a defender office's area of service are changed, the leases which the counties have signed and the respective payment obligations of all the counties involved, are also impacted. Counties pulling out of a particular office's service area are no longer receiving services from that office but are obligated under the signed lease to pay a proportion of the cost of the lease of that office. If the lease could be renegotiated, the remaining counties would be required to pick up a larger portion of the lease even though that was never planned for in their budgets. Even where the switch in coverage areas does not change the number of counties (i.e. one is removed and a different one is added) the amounts owed by each county can and usually do shift. The obligation of the counties is allocated by population, so the removal of a more populous county and its replacement with a lesser populated county shifts a higher percentage of the rent costs for the public defender office to the other counties in the district.

Only then can it be determined which offices need to move, the costs of those moves, which offices are closing, where are new offices opening, what the counties will agree to pay for in terms of office space adjustments and where are the gaps that SPD may have to step in and cover to keep an office from becoming homeless, as has happened before.

The duration of leases also vary by district office all around the state -- i.e. they do not all expire at one time making it impossible to conveniently rearrange all into new geographic boundaries and then sign new leases. While the lease in two of the counties that make up one-half of a judicial circuit may expire this year, the lease for two other counties that need to move into that circuit may not expire for five years. This makes transitioning offices to congruency with judicial circuits a very complicated task. Counties are not willing to pay for overlapping leases, which means that leases entered into by the counties will have to be broken. Each lease generally has a fiscal year end out clause if the legislature no longer funds the public defender office -- or, as in this case, so drastically reduces the size of the offices that office space changes will need to be made. However, not only does that often cost county commissioners good will with their

ASSUMPTION (continued)

local constituents who are the landlords for the building, there is also a cost penalty involved. Most leases amortize the costs of renovation and build-out over the life of the lease. If the lease is terminated early, those build-out costs become immediately payable in full by the counties who signed the leases. This is without regard to whether the counties have budgeted for such large payments to come due all at once.

Because of the change in law in 2013, counties now include language in the lease to accommodate a potential change in a county's assigned area.

By removing the provisions in §600.042, some counties may experience a savings in lease costs, other counties may experience an increase, and still others may not be impacted. Therefore, **Oversight** will reflect the impact to counties as \$0 to unknown costs/unknown savings.

Oversight notes the plan is currently (without this change) to be implemented by December 31, 2021.

§§528.700 to 528.750 - "Save the Family Farm Act"

Officials from the **Office of the State Treasurer** assume the proposal will have no fiscal impact on their organization.

In response to similar legislation HCS for HB 919, officials at the **Office of the State Courts Administrator** and the **Department of Agriculture** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these sections.

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

FISCAL IMPACT - Local Government

FY 2020
(10 Mo.)

FY 2021

FY 2022

COUNTIES

Savings - Certain counties - decrease in operational costs including rent expense (\$600.042) for removing plan for SPD to create district offices

\$0 to Unknown

\$0 to Unknown

\$0 to Unknown

Costs - Certain counties - increase in operational costs, including rent and lease (\$600.042) for removing plan for SPD to create district offices

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

ESTIMATED NET EFFECT ON COUNTIES

**\$0 or Unknown
to (Unknown)**

**\$0 or Unknown
to (Unknown)**

**\$0 or Unknown
to (Unknown)**

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act modifies several provisions relating to court proceedings, including: (1) child relocation; (2) grandparent visitation; (3) public defenders; and (4) the "Save the Family Farm Act".

CHILD RELOCATION (Section 452.377)

This act requires a party intending to relocate a child subject to a custody or visitation agreement to notify any other parties entitled to custody or visitation of their right to file a motion seeking an order to prevent the relocation and an accompanying affidavit setting forth the specific good faith factual basis for opposing the relocation within 30 days of receipt of the notice.

GRANDPARENT VISITATION (Section 452.402)

Under this act, a court may grant grandparent visitation if the grandparent has been unreasonably denied visitation for a period exceeding sixty days and one of several other scenarios has occurred. Except as otherwise provided, if the child's natural parents are legally married to each other and are living together with the child, a grandparent may not file for visitation. Before granting visitation, a court shall determine if such visitation would be in the child's best interests.

FISCAL DESCRIPTION (continued)

This act repeals a provision of current law establishing a rebuttable presumption that married parents living with a child know what is in the best interests of the child.

PUBLIC DEFENDERS (Section 476.001 and 600.042)

This act removes a provision requiring the Director of the Public Defender's Office to prepare a plan to establish district offices, which would coincide with existing judicial circuits.

"SAVE THE FAMILY FARM ACT" (Sections 528.700 to 528.750)

This act creates the "Save the Family Farm Act", creating new provisions regulating the partition of property among heirs. This act only applies to property that is determined by a court to be "heirs property", being defined as real property held in tenancy in common which satisfies all of the following: (1) there is no agreement in a record binding all the cotenants which governs the partition of the property; (2) one or more of the cotenants acquired title from a relative, whether living or deceased; and (3) any of the following apply: a) twenty percent or more of the interests are held by cotenants who are relatives; b) twenty percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or c) twenty percent or more of the cotenants are relatives.

Under this act, if any cotenant requests partition by sale of heirs property the court shall send notice to all other cotenants that they may buy all the interests of the cotenant requesting partition by sale. All cotenants are given 45 days to respond to the court notice. After the expiration of 45 days the following rules apply: (1) if only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of that fact; (2) if more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy and send notice to all the parties of that fact and of the price to be paid by each electing cotenant; (3) if no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall send notice to all the parties of that fact and resolve the partition action through partition in kind or 2 partition by sale, whichever method applies as required by the act. These provisions apply to all partition actions filed on or after August 28, 2019.

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
Department of Mental Health
Office of the State Public Defender
Office of the State Treasurer
Department of Agriculture



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May 15, 2019

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May 15, 2019