

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0532S.01I  
Bill No.: SB 274  
Subject: Children and Minors; Courts; Domestic Relations; Family Law; Guardians  
Type: Original  
Date: April 26, 2021

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Bill Summary: This proposal modifies provisions relating to child custody.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
General Revenue	(Unknown, could exceed \$6,463)	(Unknown, could exceed \$15,822)	(Unknown, could exceed \$16,139)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Unknown, could exceed \$6,463)</b>	<b>(Unknown, could exceed \$15,822)</b>	<b>(Unknown, could exceed \$16,139)</b>

The fiscal impact on Missouri courts is ultimately unknown. Oversight assumes the potential fiscal impact statewide could possibly reach the \$250,000 threshold, depending upon the level of additional work required by OSCA.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

*§§452.340, 452.375, 452.377, 452.780, 453.110 and 475.060 – Child Custody*

Officials from 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.

**Oversight** notes per §452.375.5 of the proposal, before the court awards custody, the court shall notify the child's relatives, within the fourth degree, and any persons with whom the child has resided, within five years, that they may intervene and seek third party custody, temporary custody or visitation. There is a potential that this notification by the courts could place a substantial amount of work on the courts in order to abide by the provisions of this section. Therefore, Oversight will reflect a \$0 to unknown negative fiscal impact for this section of the proposal.

Officials from the **Department of Social Services**, the **Missouri Office of Prosecution Services** and **St. Louis City** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Department of Corrections (DOC)** assume this proposal modifies provisions relating to child custody. In Section 452.780, it is added that any person who fails to give accurate information as required under that section is guilty of a class E felony. These actions are considered nonviolent class E felony offenses; therefore, the intent of the bill is to create a new class E felony offense.

Since this is a new offense, the DOC will use a standard class E felony response. For each new nonviolent class E felony, the DOC estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the DOC is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2024.

## Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
<b>Change (After Legislation - Current Law)</b>										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
<b>Cumulative Populations</b>										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
<b>Impact</b>										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
<b>Population Change</b>	<b>3</b>	<b>6</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>

\* If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state

In December 2019, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 48 probation and parole districts.

The DOC cost of incarceration is \$21.251 per day or an annual cost of \$7,756 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

In summary, DOC assumes a cost of \$6,463 in FY 22, \$15,822 in FY 23 and \$16,139 in FY 24 for this proposal. **Oversight** does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the DOC.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other counties were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>GENERAL REVENUE FUND</b>			
<u>Costs</u> – DOC – increases for incarceration and probation & parole for new offense of failure of accurate information in child custody cases	(\$6,463)	(\$15,822)	(\$16,139)
<u>Costs</u> – OSCA – potential increase in workload for staff to notify relatives to intervene to seek custody of children	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>(Unknown, could exceed \$6,463)</b>	<b>(Unknown, could exceed \$15,822)</b>	<b>(Unknown, could exceed \$16,139)</b>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

#### FISCAL IMPACT – Small Business

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

#### FISCAL DESCRIPTION

Under this act, the obligation of a parent ordered to pay child support shall abate if the other parent has permanently transferred custody of the child to a third party without first obtaining court approval.

Additionally, in custody cases where a court finds each parent to be unfit, unsuitable, or unable to be a custodian and the court determines that custody, temporary custody, or visitation with a third person is in the best interests of the child, the court shall notify the child's relatives, within the fourth degree, and any persons with whom the child has resided within 5 years that such

persons may intervene to seek third party custody, temporary custody, or visitation, if such persons are not already a party to the action. Any person may petition the court to intervene as a party of interest at any time and the court shall allow such intervention as a matter of right.

Except in cases where the court finds that a relative is unfit, unsuitable, or unable to be the child's custodian or if the welfare of the child requires and it is in the best interests of the child, priority and preference for third party custody shall be given to an intervening grandparent or the relative who is closest in degree by sanguinity to the child.

No order denying third party contact with a child shall be entered by the court against a third party who has not been made a party to the action unless the court finds that the third party may not be found and joined as a party.

This act modifies the definition of "relocation" of a child in a custody arrangement to include the permanent transfer of custody of a child under a court order. In cases involving a proposed permanent transfer of custody to a third party, the legal custodian shall give notice of the proposed change in residence or location of the child to any noncustodial parent whose last known address is on record with the court, as provided for in the act. Such notice shall be in writing by certified mail and shall be provided at least 60 days in advance of the proposed transfer. The notice shall not include the actual address to which the child shall be relocated, but shall include information on the noncustodial parent's right to intervene and seek custody of the child. Beginning August 28, 2021, every court order establishing or modifying custody shall include the addresses of the legal custodians and noncustodial parents, as specified in the act.

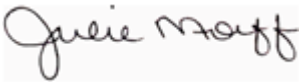
Current law requires each party in a child custody proceeding to give information as to the child's residences over the prior five years. Under this act, any person who knowingly, purposefully, or intentionally fails to give accurate, full, and complete information shall be guilty of a Class E felony and shall be reported to the local county prosecutor or circuit attorney.

Under current law, any person may file a petition for appointment as guardian of a minor. This act requires that the minor not be currently subject to a prior custody order. Petitions shall include information about the minor's residences over the prior five years. Notice of the guardianship petition shall be given to persons identified as having physical custody of the minor over the prior five years and each of these persons shall have the right to intervene and seek guardianship of the minor. Failure to give notice shall be grounds to set aside the guardianship appointment.

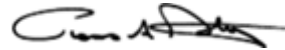
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections  
Office of the State Courts Administrator  
Department of Social Services  
Missouri Office of Prosecution Services  
St. Louis City



Julie Morff  
Director  
April 26, 2021



Ross Strobe  
Assistant Director  
April 26, 2021