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S.B. 202
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Sens. Hackett and Antonio

Local Impact Statement Procedure Required: No

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Highlights

- Courts, public children services agencies, private child placing agencies, or private noncustodial agencies may experience a cost to determine if support services or modifications are necessary and reasonable for a person with a disability in cases involving custody, visitation, or other care arrangements. The impact is anticipated to be minimal.
- The bill provides that a civil action to challenge a state administrative order issued in a state of emergency be brought in the Court of Claims or an appropriate local court depending on the nature of the action. As a result of this provision, the number of civil actions that, because of future state of emergencies, could be filed in the Court of Claims instead of local trial courts is unforeseeable.
- As a result of the Department of Administrative Services selling land overseen by the Department of Public Safety, \$1.00 would be deposited to the credit of the Public Safety – Highway Purposes Fund (Fund 5TM0).
- The bill permits metropolitan planning organizations, regional transportation planning organizations, or regional councils of governments to obtain legal services from county prosecuting attorneys. Presumably, these groups would elect to do this when they could obtain legal services at a lower cost than their current provider.
- Costs incurred by county prosecutors for providing legal services could be offset by agreed upon legal fees paid by the contracting entities.
- Costs to operate the Task Force on Bail are uncertain at this time but will presumably be absorbed by the House of Representatives, the Senate, and their supporting administrative agencies.

- Compensation changes for the current judge of the Fulton County County Court, in January 2023, will result in a \$26,250 net increase in compensation expenses for Fulton County, and for the state, \$36,883.
- The bill will have a minimal effect on the workload and related annual operating costs of the probate divisions of courts of common pleas.

Detailed Analysis

Disability generally barred as a factor for minor's caretaker

The bill specifies that a person's disability cannot be used solely as a reason to deny or limit custody, parenting time, visitation, adoption, or services as a guardian or foster caregiver to a minor. The bill requires a court, public children services agency (PCSA), private child placing agency (PCPA), or private noncustodial agency (PNA) to determine whether supportive services¹ or modifications designed to assist the person regarding the activities or authority are necessary and reasonable when determining whether to grant a person with a disability the right to conduct the previously mentioned activities. In addition, these entities must provide reasons for a determination. Further, a court must make specific written findings of fact and conclusions of law providing the basis for its determination. If support services or modifications are determined to be necessary and reasonable, the court, PCSA, PCPA, or PNA that made the determination may require the supportive services or modifications to be implemented. The entity imposing the modifications or services must review their continued necessity and reasonableness after a reasonable amount of time. If it is found that supportive services or modifications are not determined reasonable, the court, PCSA, PCPA, or PNA is required to deny or limit the activities or exercise of authority. Under the bill, the person with a disability is permitted to bring an action or, in the case of a court determination, file a motion, to challenge (1) the modifications or supportive services required or (2) the limitation or denial. If an action is brought or a motion is filed, the court is required to either (1) affirm the modifications or supportive services or limitation or denial and make specific written finding of fact and conclusions of law providing the basis for its decision or (2) rescind the modifications or supportive services or limitation or denial and grant the person the right to conduct the activities or exercise authority as mentioned above. Local courts, PCSAs, PCPAs, and PNAs could realize an increase in costs to make these determinations. The costs are likely to be minimal. There could also be costs if an action is brought forward or if a motion is filed. These costs will depend on the number of such cases and the specifics of each individual case. In addition, if support services or modifications are required to be implemented and an individual is eligible for public programs that offer these, it is possible that the state or political subdivisions could incur additional costs.

Civil action to challenge administrative order issued in a state of emergency

Under current law, a person may challenge an order or rule adopted or issued in response to a state of emergency by an administrative department, administrative department head, state

¹ Under the bill, supportive services are any services provided through a program or agency at the federal, state, or local level that are intended to assist a person with a disability with day-to-day responsibilities and activities, including those associated with the care and supervision of a minor.

agency, or statewide elected officer for damages, in a civil action for damages, declaratory judgment, injunctive relief, or other appropriate relief in an appropriate court located in the county where the person's residence or business is located.

The bill makes changes to that provision as follows:

- Specifies that if the civil action is for damages, the action may be brought only in the Court of Claims.
- Specifies that if the civil action is for declaratory judgment, injunctive relief, or other appropriate relief other than damages, the action may be brought in an appropriate court located in the county where the person's residence or business is located or in the Court of Claims.
- Specifies that if the civil action is for damages and also is for declaratory judgment, injunctive relief, or other appropriate relief, the action may be brought only in the Court of Claims.

As a result of these changes, the number of civil actions that, because of future state of emergencies, could be filed in the Court of Claims instead of local trial courts is unforeseeable.

Land conveyance

The bill authorizes the Governor to execute a deed conveying approximately $\frac{3}{4}$ acres of state property overseen by the Department of Public Safety (DPS) and improved with an approximately 2,300 square foot building at 10391 Airport Highway in Swanton (Lucas County) to the Lucas County Commissioners. Under the bill, the sale would be conducted by the Director of Administrative Services. Consideration for the conveyance is \$1.00 which would be deposited to the credit of the Public Safety – Highway Purposes Fund (Fund 5TMO). The bill allows the Director of DAS to sell the property using an alternative method if the Commissioners do not complete the sale in a timely manner and allows the Director to include deed restrictions that (1) require the buyer, prior to any subsequent transfer of property, to offer it to the state at the same price for which the buyer purchased it, and (2) prohibit the buyer from leasing the property or any portion of it for purposes other than a proper public purpose.

County prosecutor contracts

The bill also permits metropolitan planning organizations, regional transportation planning organizations, and regional councils of governments to contract with a county prosecuting attorney for legal services. The bill could lower legal services costs for a metropolitan planning organization, regional transportation planning organization, or regional councils of governments where county prosecuting attorneys are able to provide legal advice and representation at a lower cost than current contracts. While county prosecutors could incur new costs to provide legal services to these entities, those costs would be offset by agreed upon legal fees to be paid by the contracting entities. The bill specifies that any fees collected by prosecuting attorneys are to be deposited into the county's prosecuting attorney's legal services fund.

Task Force on Bail

The bill establishes a Task Force on Bail to collect and evaluate data regarding the current usage of bail in this state. The task force will be comprised of six members: three members of the House of Representatives appointed by the Speaker of the House of Representatives and three

members of the Senate appointed by the President of the Senate. The task force is to collect and evaluate data regarding the current usage of bail in the state via hearings and the use of a questionnaire. The questionnaire will be provided to each county sheriff to fill out on a daily basis for a period of two months. The county sheriff for each county shall return the completed forms to the task force.

The data collected will include: (a) total number of people currently housed in the jail, (b) of that total population, the total number of inmates currently serving sentences, and the total number being held pretrial, (c) total number of people being held on felony charges pretrial, which shall be broken down by the level of the felony charged, and for what length of time, and (d) total number of people being held on misdemeanor charges pretrial, which shall be broken down by the level of the misdemeanor charged, and for what length of time. Not later than six months after the submission of all questionnaires, the task force shall prepare and submit a report to the General Assembly detailing its findings and any recommendations. Upon the submission of its report, the task force shall cease to exist. Costs to operate the task force are uncertain at this time but will presumably be absorbed by the House of Representatives, the Senate, and their supporting administrative agencies.

Fulton County County Court

The bill requires that, effective January 1, 2023, the part-time judgeship of the Fulton County County Court (originally elected in 1982) be converted to a full-time judgeship of that court until the court is abolished on January 1, 2024, pursuant to enacted Sub. H.B. 518 of the 134th General Assembly. On January 1, 2023, that full-time judge of the Fulton County County Court will receive the compensation of a full-time judge of a municipal court until the court is effectively abolished. In January 2023, a part-time judge elected to a county court will be paid \$85,642 annually, with compensation being split between the county (\$35,500) and the state (\$50,142). A full-time municipal court judge earns \$148,775 annually, with compensation being split between the local jurisdiction (\$61,750) and the state (\$87,025). The net increase for Fulton County will be \$26,250, and for the state, \$36,883.

Various changes to cases under probate jurisdiction

The bill makes various changes related to the laws regarding cases generally under the subject matter jurisdiction of the probate divisions of the state's 88 courts of common pleas. The bill specifically amends the laws regarding disinterment of bodies buried in cemeteries, conclusion of irrevocable trusts, records disclosures relating to settlement of claims for minors, and options a creditor has to present a claim against an estate. Collectively, these provisions will have a minimal fiscal impact on the probate courts, with any additional work and related operating expenses absorbed with existing staff and appropriated resources.

Qualification of judges

The bill modifies the qualifications for office for judges of municipal courts, county courts, courts of common pleas, courts of appeals, and justices of the Supreme Court. This provision is not expected to create any direct fiscal effect on the state or political subdivisions.