# *Fiscal Note & Local Impact Statement*

*127 th General Assembly of Ohio*

Ohio Legislative Service Commission
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BILL: **Am. Sub. H.B. 395** DATE: **December 17, 2008**

STATUS: **As Enacted – Effective April 7, 2009** SPONSOR: **Rep. Hughes**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Exclusion of Social Security benefits in divorce proceedings**

## *State Fiscal Highlights*

- No direct fiscal effect on the state.

## *Local Fiscal Highlights*

| LOCAL GOVERNMENT | FY 2009 – FUTURE YEARS |
|---|---|
| **Counties (domestic relations divisions of the courts of common pleas)** | |
| Revenues | - 0 - |
| Expenditures | Potential, likely minimal at most, annual savings effect |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- ***Court of common pleas domestic relations division.*** As a result of the bill's divorce proceedings provisions, the domestic relations divisions of the courts of common pleas may spend less time and effort dividing property in certain divorce proceedings. From a fiscal perspective, the bill may create a cost-savings effect, likely to be minimal at most, for any affected court per year.

# *Detailed Fiscal Analysis*

***Overview***

For the purposes of this fiscal analysis, the bill most notably modifies the manner in which the domestic relations division of the court of common pleas divides property in divorce proceedings, including generally excluding Social Security benefits.

***Courts and divorce proceedings***

***Local fiscal effects***

In its conversations with a member of the Judicial Conference of Ohio, LSC fiscal staff learned that federal law regards Social Security benefits as, for all intents and purposes, untouchable, which is to say that only the Internal Revenue Service or a child support order can factor Social Security benefits when weighing a citizen's assets and financial obligations. The state of Ohio, however, is one of six states that do not conform to that interpretation, as evidenced by the Supreme Court of Ohio's ruling in *Neville v. Neville* that found it permissible for a court to factor in Social Security benefits during a divorce proceeding. This arguably might raise a court's decision costs as, to do so, an appraisal of the current day value of one's future Social Security benefits has to be conducted.

In the course of its conversations with practitioners in the area of domestic relations law, LSC fiscal staff found that the permissive nature of the *Neville* ruling generates the arguably obvious effect where some courts choose to include Social Security benefits in the division of property and others do not. In the instance where a court does factor Social Security benefits into divorce proceedings, a final resolution is, at least theoretically, delayed longer than when a court does not factor those benefits into the proceedings.

It stands to reason, then, that by generally excluding Social Security benefits from the court's jurisdiction, the bill may expedite certain divorce proceedings by eliminating the need for an appraisal of those benefits, potentially allowing more proceedings to move through the courts quicker and ultimately easing the time and resources expended by court personnel. Such an outcome creates a potential savings effect, the annual magnitude of which is likely to be no more than minimal, if that, for any affected court.

***State fiscal effects***

The bill's divorce proceedings provisions will have no direct fiscal effect on the state.

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