

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1384-02
Bill No.: Perfected HCS for HB 564
Subject: Professional Registration and Licensing
Type: Original
Date: March 6, 2019

Bill Summary: This proposal establishes the “Fresh Start Act of 2019.”

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue Fund	\$0 to (\$26,555)	\$0 to (\$13,902)	\$0 to (\$14,051)
Total Estimated Net Effect on General Revenue	\$0 to (\$26,555)	\$0 to (\$13,902)	\$0 to (\$14,051)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Various DIFP Funds	(Could be greater than \$285,437)	(Could be greater than \$304,311)	(Could be greater than \$307,346)
Total Estimated Net Effect on <u>Other</u> State Funds	(Could be greater than \$285,437)	(Could be greater than \$304,311)	(Could be greater than \$307,346)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 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
General Revenue Fund	0 to 0.225 FTE	0 to 0.125 FTE	0 to 0.125 FTE
Various DIFP Funds	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 to 3.225 FTE	3 to 3.125 FTE	3 to 3.125 FTE

☒ 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
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 324.012

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state that this section requires that each state licensing authority list the categories or specific criminal convictions that could disqualify an applicant from receiving a license. Further, licensing authorities shall only list criminal convictions that are specific and directly related to the duties and responsibilities for the licensed occupation. Currently no such list exists. As a result, the department would need ongoing attorney services to develop the list and determine which convictions are "specific and directly related" to the type of license being applied for. The department estimates at least \$285,437 in additional FTE and/or legal contract costs (estimating three attorney FTE at \$68,310 annually or work in various division / boards in the department) to various department funds annually for this work. The exact costs could be greater. The department would need to request additional FTE and/or expense appropriation through the budget process to handle this additional workload.

This proposal also authorizes that an individual with a criminal record may petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. The licensing authority shall inform the individual of their standing within 30 days after the licensing authority has met, but in no event more than four months after receiving the petition from the applicant. Each written determination that an applicant's criminal conviction is a specifically listed disqualifying conviction "shall be documented with written findings for each of the grounds or reasons...by clear and convincing evidence sufficient for a reviewing court". The licensing authority may charge a fee not to exceed \$25.00 for each petition. The fiscal impact the department for petition process is unknown depending up on the number of petitions received and the extent of the work required. The department would request additional FTE and appropriation, as necessary, through the budget process.

In summary, **Department of Insurance, Financial Institutions and Professional Registration** assumes a cost of Unknown but greater than \$402,437 in FY 2020, \$421,311 in FY 2021 and \$424,346 in FY 2022 to Various Department Funds to provide for the implementation of all of the changes in this proposal.

ASSUMPTION (continued)

Oversight will reflect DIFP's estimated need of at least 3 attorneys and that DIFP may or may not incur additional unknown cost of \$100,000 for either or both contracting and additional legal staff as a result of this proposal. Oversight will reflect the estimated DIFP cost as (Could be greater than \$402,437) in FY 2020, (Could be greater than \$421,311) in FY 2021 and (Could be greater than \$424,346) in FY 2022.

Oversight will also reflect a revenue of could exceed \$117,000 per year to Various DIFP Funds as a result of the \$25 petition fee and revenue generated from new licensees after this proposal.

Officials from the **Department of Revenue (DOR)** assume this legislation creates the "Fresh Start Act of 2019" and may impact the issuance or denial of a dealer license as it relates to the required criminal background check.

Administrative Impact

To implement the proposed changes, the Department may be required to:

- Update the Dealer Operating Manual;
- Amend and update administrative rules; and
- Train staff.

FY 2020 - Motor Vehicle Bureau

Management Analysis Spec I	40 hrs. @ \$18.42 per hr.	= \$ 737
Administrative Office Support Asst.	15 hrs. @ \$13.78 per hr.	= \$ 207
Revenue Manager	80 hrs. @ \$20.59 per hr.	= \$1,647
Total		= \$2,591

FY 2020 - Personnel Services Bureau

Administrative Analyst III	10 hrs. @ \$19.80 per hr.	= \$ 198
Total Costs		= \$2,789

The Department anticipates that the DOR will be able to absorb these costs and that there will be no fiscal impact as a result of this proposal.

Oversight notes that the Department of Revenue has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for DOR.

ASSUMPTION (continued)

Section 324.012.4

Officials from the **Department of Health and Senior Services - Directors Office (DHSS)** assume the proposed legislation allows an individual with a criminal record to petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include details on the individual's criminal record, and the licensing authority shall inform the individual of his or her standing within thirty days of receiving the petition from the applicant.

The Department of Health and Senior Services will require .125 FTE for an attorney (\$64,500 average annual salary) to process the increased number of petitions created from this proposed legislation. The attorney duties may include:

- Reviewing requests for records (sunshine and/or subpoenas)
- Coordinating and advising with program staff to determine whether the Department has records responsive to requests
- Reviewing of individual records
- Determining appropriate response
- Responding to requestor
- Drafting/filing motions to quash subpoenas when necessary
- Possible referrals to the Attorney General's Office
- Assisting in the preparation of the documentation regarding each petition that must be done within thirty days of receiving the petition.

The Department assumes that these additional petitions will require 260 hours of an attorney's time each year for a total of .125 FTE (260/2,080 hours=.125). This translates to a yearly additional cost of \$8,062.60 (\$31.01 an hour x 260 hours= \$8,062.60). Due to current workload being at maximum limits, these costs cannot be absorbed.

Section 324.012.9

DHSS assumes the proposed legislation requires the promulgation of rules and regulations, which include the following duties (but not all inclusive): establish guidelines, implement strategies, make evidence-based system changes, and create policy recommendations. The Department of Health and Senior Services (DHSS), Office of General Counsel will need an additional .1 FTE for an attorney (salary of \$64,500 per year) in FY 2020 to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility.

ASSUMPTION (continued)

Due to current workload being at maximum limits, these costs cannot be absorbed.

Oversight assumes DHSS could absorb some of the additional duties without adding .225 FTE in FY 2020 and .0125 FTE in FY 2021 and FY 2022; however, DHSS has stated due to current workload being at maximum limits, these cost cannot be absorbed. Therefore, Oversight will range the cost from \$0 (.225 FTE can be absorbed) to \$26,555 (0.225 FTE is not absorbed) in FY 2020 and \$0 (.0125 FTE can be absorbed) to roughly \$14,000 (0.225 FTE is not absorbed) in FY 2021 and FY 2022 to the General Revenue Fund.

Section 324.012.4(1)

Officials from the **Department of Health and Senior Services - Division of Regulation and Licensure (DRL)** assume the proposed legislation requires DRL's, Section for Health Standards and Licensure, Bureau of Narcotics and Dangerous Drugs (BNDD) and the Bureau of Emergency

Medical Services (EMS) to revise its existing licensing requirements to explicitly list the specific criminal convictions that could disqualify an applicant from receiving a license.

It is assumed it will take BNDD's Health and Senior Services Manager (\$66,798, average annual salary) approximately 40 hours to make the required changes. Based on 2,080 working hours per year, this would require 0.02 FTE to assume these duties ($40 \text{ hours} \div 2,080 \text{ hours per year} = 0.02$) for a total personal service cost of \$1,336 ($\$66,798 \times 0.02$) for FY20.

It is assumed it will take EMS's Health and Senior Services Manager (salary \$60,784) approximately 40 hours to make the required changes. Based on 2,080 working hours per year, this would require 0.02 FTE to assume these duties ($40 \text{ hours} \div 2,080 \text{ hours per year} = 0.02$) for a total personal service cost of \$1,216 ($\$60,784 \times 0.02$) for FY20. Creating a total cost for DRL of \$2,552.

The proposed legislation also allows a licensing authority to charge a fee to recoup costs when an individual with a criminal record petitions the licensing authority for a determination of whether their criminal record will disqualify them from obtaining a license. DRL assumes fees will not be charged for this service.

The department anticipates being able to absorb these costs. However, until the FY20 budget is final, the department cannot identify specific funding sources.

ASSUMPTION (continued)

Oversight notes that the DRL has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for DLR.

Bill as a whole:

Officials from the **Office of Administration - Administrative Hearing Commission**, the **Department of Natural Resources**, the **Department of Agriculture**, the **Department of Transportation** and the **Department of Public Safety - Missouri Highway Patrol** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the and the **Department of Economic Development** assume the proposal would have no fiscal impact on their organization.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Cost - DHSS p. 6</u>			
Salary	\$0 to (\$12,094)	\$0 to (\$8,143)	\$0 to (\$8,225)
Fringe Benefits	\$0 to (\$6,050)	\$0 to (\$4,058)	\$0 to (\$4,083)
Equipment and Expense	<u>\$0 to (\$8,411)</u>	<u>\$0 to (\$1,701)</u>	<u>\$0 to (\$1,743)</u>
<u>Total Cost - DHSS</u>	<u>\$0 to (\$26,555)</u>	<u>\$0 to (\$13,902)</u>	<u>\$0 to (\$14,051)</u>
FTE Change - DHSS	0 to 0.225 FTE	0 to 0.125 FTE	0 to 0.125 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0 to (\$26,555)</u>	<u>\$0 to (\$13,902)</u>	<u>\$0 to (\$14,051)</u>
Estimated Net FTE to the General Revenue Fund	0 to 0.225 FTE	0 to 0.125 FTE	0 to 0.125 FTE

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

VARIOUS DIFP FUNDS

<u>Revenue - DIFP</u>	Could exceed	Could exceed	Could exceed
\$25 petition fee and additional revenue from additional licensees	\$117,000	\$117,000	\$117,000

<u>Cost - DIFP</u>			
Salaries	(\$170,775)	(\$206,979)	(\$209,049)
Fringe Benefits	(\$83,565)	(\$100,903)	(\$101,533)
Equipment and Expense	(\$48,097)	(\$13,429)	(\$13,764)
Other Fund Cost (Additional FTE or Legal Contract Cost for listing criminal convictions (Section 324.012))	<u>\$0 or (Unknown greater than \$100,000)</u>	<u>\$0 or (Unknown greater than \$100,000)</u>	<u>\$0 or (Unknown greater than \$100,000)</u>
<u>Total Cost - DIFP</u>	<u>(Could be greater than \$402,437)</u>	<u>(Could be greater than \$421,311)</u>	<u>(Could be greater than \$424,346)</u>
FTE Change - DIFP	3 FTE	3 FTE	3 FTE

ESTIMATED NET EFFECT TO VARIOUS DIFP FUNDS	<u>(Could be greater than \$285,437)</u>	<u>(Could be greater than \$304,311)</u>	<u>(Could be greater than \$307,346)</u>
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Estimated Net FTE Change to the General Revenue Fund	3 FTE	3 FTE	3 FTE
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<u>FISCAL IMPACT - Local Government</u>	FY 2020	FY 2021	FY 2022
	(10 Mo.)		
	<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

This bill adds several new sections relating to professional registration, including the licensing of:

- (1) Applicants with a criminal record;
- (2) Apprenticeship programs;
- (3) Dietitians;
- (4) Cosmetologists; and
- (5) Plumbers.

LICENSE APPLICANTS WITH A CRIMINAL RECORD

This bill introduces a section that will be known as the "Fresh Start Act of 2019." A person cannot be disqualified from licensure for any occupation solely or in part because of a prior conviction of a crime, unless the crime directly relates to the duties and responsibilities for the licensed occupation (Section 324.012.1 and 324.012.3, RSMo).

Each state licensing authority must revise its existing licensing requirements to explicitly list which specific criminal convictions could disqualify an applicant. The licensing authority cannot consider arrests without a conviction. Disqualifying convictions must be specific and directly related to the duties and responsibilities of the occupation (Section 324.012.4).

In determining whether a particular applicant with a conviction will be denied a license, the licensing authority must use a clear and convincing standard of proof and determine the nature and seriousness of the crime, the passage of time since the commission of the crime, the relationship of the crime to the fitness required to perform the duties of the occupation, and any evidence of rehabilitation (Section 324.012.4).

An individual with a conviction cannot be disqualified from an occupation for more than five years, unless the crime is violent or sexual in nature or if the individual was convicted of another crime during that five-year period (Section 324.012.4).

An individual with a conviction can petition the licensing authority for a determination of whether or not the individual's criminal record will disqualify him or her from licensure. The licensing authority must respond within 30 days (Section 324.012.5).

If an individual is denied a license based on a previous criminal conviction, the licensing authority must notify the individual of the grounds for denial. Evidence for the grounds for denial must have clear and convincing evidence sufficient for a reviewing court. The applicant has the right to a hearing to challenge the licensing authority's decision.

FISCAL DESCRIPTION (continued)

The licensing authority has the burden of proof on whether the conviction directly relates to the occupation (Section 324.012.6).

These provisions do not apply to peace officers or law enforcement personnel (Section 324.012.7).

APPRENTICESHIP PROGRAMS

This bill requires licensing authorities to grant a license to applicants who have completed the 8th grade, completed a federally approved apprenticeship program, and passed any necessary examination. The passing score for any examination cannot be higher than the passing score required for any non-apprenticeship license, and there cannot be an examination required for an apprenticeship license if there isn't one required for a nonapprenticeship license (Sections 324.025.3 and 324.025.4).

For some types of apprenticeships, the number of working hours required cannot be more than the number of educational hours required for a non-apprenticeship license (Section 324.025.4).

DIETITIANS

This bill allows any person to disseminate free literature or provide individualized nutrition assessment, guidance, encouragement, recommendations, or weight control services as to the use of food, food materials or dietary supplements without a dietitian license, as long as the person does not hold himself or herself out as a dietitian (Section 324.206).

COSMETOLOGISTS

Currently, 1500 hours of training are required for cosmetologists. This bill requires at least 1000 hours training for the classification of hairdresser, and 400 of those hours can be applied toward the classification of cosmetologist. Currently, 750 hours of training are required for the classification of esthetician; this bill allows 500 of those hours to apply toward the classification of cosmetologist (Section 329.050).

PLUMBERS

Currently, applicants for a master plumber license are required to be at least 25 years old, applicants for a journeyman plumber license are required to be at least 21 years old, and applicants for a master drainlayer license are required to be at least 25 years old.

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 Insurance, Financial Institutions and Professional Registration
Office of Administration
 Administrative Hearing Commission
Department of Revenue
Department of Health and Senior Services
Department of Natural Resources
Department of Agriculture
Department of Transportation
Department of Public Safety
 Missouri Highway Patrol



Kyle Rieman
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March 6, 2019

Ross Strobe
Assistant Director
March 6, 2019