

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1384-06
Bill No.: SCS for HCS for HB 564
Subject: Professional Registration and Licensing
Type: Original
Date: April 23, 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 \$378,672)	(Could be greater than \$411,414)	(Could be greater than \$415,462)
Total Estimated Net Effect on <u>Other</u> State Funds	(Could be greater than \$378,672)	(Could be greater than \$411,414)	(Could be greater than \$415,462)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 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	4 FTE	4 FTE	4 FTE
Total Estimated Net Effect on FTE	4 FTE to 4.225 FTE	4 FTE to 4.125 FTE	4 FTE to 4.125 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** assume this proposal 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 bill 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, DIFP assumes a cost for this section (3 FTE at \$68,310 annually and an additional unknown cost of \$100,000 for either or both contracting and additional legal staff) of Unknown but greater than \$396,754 in FY 2020, \$421,311 in FY 2021 and \$424,347 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 for this section 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 \$396,754) in FY 2020, (Could be greater than \$421,311) in FY 2021 and (Could be greater than \$424,347) in FY 2022.

Oversight will also reflect a revenue of \$117,000 per year to Various DIFP Funds as a result of the \$25 petition fee.

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 - Division of Community and Public Health** assume the proposed legislation requires licensing authorities to revise their existing requirements to "explicitly state the specific criminal convictions that could disqualify an applicant from receiving a license." The Lead Licensing Program (LLP) and Onsite Wastewater Treatment Program (OWTP) would need to revise regulations to be compliant with this proposed legislation. The OWTP does not assess criminal history as part of their current licensing practice, and would need to review their regulations for consistency or make a minor amendment. The LLP is required to assess criminal history under another statute, so the program would need to revise their forms to be compliant with the proposed legislation. Time and cost for these revisions is estimated in the table below. The department anticipates being able to absorb these costs, resulting in zero fiscal impact. However, until the FY20 budget is final, the department cannot identify specific funding sources.

	Program Manager (EPHS V - OWTP)	Program Manager (Env. Superv. – LLP)	Program staff (HPR II)	Section Rules Coordinator (HPR III)	Management Review (HSSM)	Total
OWTP rules	2			2	1	5
LLP rules		15	5	30	5	55
LLP forms		2	3			5
Total hours	2	17	8	32	6	65 hours
Average Salary	\$53,351	\$58,903	\$37,970	\$43,365	\$66,574	
Total cost	\$52	\$491	\$149	\$680	\$196	\$1,568

Oversight notes that the Division of Community and Public Health 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 this agency for this section.

ASSUMPTION (continued)

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

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 this agency for this section.

Section 324.012.5

Officials from the **Department of Health and Senior Services - Division of Regulation and Licensure (DRL)** assumes the proposed legislation 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 this agency for this section.

Section 324.012.5

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.

DHSS 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.

Oversight assumes DHSS could absorb some of the additional duties without adding 1/8 of an FTE; 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 (1/8 FTE can be absorbed) to \$8,063 (1/8 FTE is not absorbed) to the General Revenue Fund.

ASSUMPTION (continued)

Section 324.012.11

Officials from the **Department of Health and Senior Services - Directors Office (DHSS)** assumes he 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) 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. 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 .1 of an FTE; 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 (.1 FTE can be absorbed) to \$5,375 (.1FTE is not absorbed) in FY 2020 to the General Revenue Fund.

Section 344.030.2(1)

Officials from the **Department of Health and Senior Services - Division of Regulation and Licensure (DRL)** assume he proposed legislation removes the Board of Nursing Home Administrators (BNHA) ability to deny licenses based on moral turpitude. This will require BNHA to promulgate new rules for the program. It is assumed it will take the Board of Nursing Home Administrator's Principal Assistant Board/Commission (salary \$51,658) approximately 16 hours to make the required changes to state rules. Based on 2,080 working hours per year, this would require 0.01 FTE to assume these duties ($16 \text{ hours} \div 2,080 \text{ hours per year} = 0.01$) for a total personal service cost of \$517 ($\$51,658 \times 0.01$) for FY20.

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

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 this agency for this section.

ASSUMPTION (continued)

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state that this section is anticipated to have no fiscal impact to the department. However, should the extent of the work be more than anticipated, the department would request additional appropriation and/or FTE through the budget process

Oversight notes that the DIFP 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 this section for this agency.

Bill as a whole:

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume this legislation removes "reasonably" and replaces it with "directly". It will take additional review and time to determine if something is "directly related" to the occupation compared to "reasonably related." The person determining that will have to know the essence of a profession and what it requires to be able to determine if the criminal conviction is directly related and whether that crime needs to go on the specific list of crimes as the statute requires. The department is estimating needing one attorney FTE for this work.

Oversight will reflect DIFP's estimated need of 1 additional attorney at \$68,310 annually. Oversight will reflect the estimated DIFP cost as (\$98,918) in FY 2020, (\$107,103) in FY 2021 and (\$108,116) in FY 2022.

In summary, DIFP assumes a total cost for this proposal (4 FTE at \$68,310 annually and an additional unknown cost of \$100,000 for either or both contracting and additional legal staff) of Unknown but greater than \$495,672 in FY 2020, \$519,414 in FY 2021 and \$532,463 in FY 2022 to Various Department Funds to provide for the implementation of all of the changes in this proposal.

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

ASSUMPTION (continued)

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 (§§ 324.012.5 & 324.012.11)</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>
Total Cost - DHSS	<u>\$0 to (\$26,555)</u>	<u>\$0 to (\$13,902)</u>	<u>\$0 to (\$14,051)</u>
<u>FTE Change - DHSS</u>	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> (continued)	FY 2020 (10 Mo.)	FY 2021	FY 2022
VARIOUS DIFP FUNDS			
<u>Revenue</u> - DIFP p. 4 \$25 petition fee (Section 324.012)	\$117,000	\$117,000	\$117,000
<u>Cost</u> - DIFP (Section 324.012)			
Salaries	(\$170,775)	(\$206,979)	(\$209,049)
Fringe Benefits	(\$83,565)	(\$100,903)	(\$101,534)
Equipment and Expense	(\$42,414)	(\$13,429)	(\$13,764)
Other Fund Cost (Additional FTE or Legal Contract Cost for listing criminal convictions	\$0 or (Unknown greater than \$100,000)	\$0 or (Unknown greater than \$100,000)	\$0 or (Unknown greater than \$100,000)
<u>Total Cost</u> - DIFP (Section 324.012) p. 3	(Could be greater than \$396,754)	(Could be greater than \$421,311)	(Could be greater than \$424,347)
FTE Change - DIFP (Section 324.012)	3 FTE	3 FTE	3 FTE
<u>Cost</u> - DIFP (Bill as a whole)			
Salaries	(\$56,925)	(\$68,993)	(\$69,683)
Fringe Benefits	(\$27,855)	(\$33,634)	(\$33,845)
Equipment and Expense	(\$14,138)	(\$4,476)	(\$4,588)
<u>Total Cost</u> - DIFP (Bill as a whole) p. 9	(\$98,918)	(\$107,103)	(\$108,116)
FTE Change - DIFP	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT TO VARIOUS DIFP FUNDS	(Could be greater than \$378,672)	(Could be greater than \$411,414)	(Could be greater than \$415,462)
Estimated Net FTE Change to the General Revenue Fund	4 FTE	4 FTE	4 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<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 proposal establishes the “Fresh Start Act of 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 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
Department of Economic Development
Department of Corrections
Office of the State Courts Administrator
Office of the State Public Defender
Office of Prosecution Services



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April 23, 2019

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