

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0318S.06T
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HCS for HB 429
Subject: Adoption; Children and Minors; Children's Division; Family Law; Health and Senior Services, Department of; Social Services, Department of; Taxation and Revenue - Income; Vital Statistics
Type: Original
Date: June 22, 2021

Bill Summary: This proposal would modify provisions relating to child placement.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund*	(\$687,410)	(\$1,989,370) to (\$8,276,680)	(\$1,997,464) to (\$8,284,774)
Total Estimated Net Effect on General Revenue	(\$687,410)	(\$1,989,370) to (\$8,276,680)	(\$1,997,464) to (\$8,284,774)

*The range in the fiscal impact is dependent on the increased utilization of the Adoption Tax Credit program and the actual and true number of months foster parents who have provided foster care services less than six months have provided such foster care services.

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

Numbers within parentheses: () indicate costs or losses.

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

*Income and expenses net to zero.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund	8.15 FTE	8.15 FTE	8.15 FTE
Federal Funds	0.35 FTE	0.35 FTE	0.35 FTE
Total Estimated Net Effect on FTE	8.5 FTE	8.5 FTE	8.5 FTE

☒ 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.

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

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division** state this proposed legislation may reduce Total State Revenue(s) by \$5,216,478 to \$5,536,248 once SB 509 (2014) has fully implemented and this proposed legislation will impact the calculation under Article X, Section 18(e).

Section(s) 135.325, 135.326, 135.327, & 135.335 – Adoption Tax Credit

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state these sections would rename the Special Needs Adoption Tax Credit to the Adoption Tax Credit.

In addition, these sections would allow any person residing in the state who proceeds with the adoption of a child on or after January 1, 2022, regardless of whether such child is a special needs child, to receive a tax credit of up to \$10,000 for nonrecurring adoption. These sections would also increase the redemption cap from \$2 million to \$6 million starting Fiscal Year 2022.

Therefore, B&P estimates that this provision may reduce Total State Revenue(s) and General Revenue by \$4 million annually, beginning in Fiscal Year 2022.

Officials from the **Missouri Department of Revenue (DOR)** state, currently, a tax credit is available for taxpayers who adopt a special needs child in an amount up to \$10,000 for nonrecurring adoption expenses. A business entity that provides funds to an employee to enable the employee to adopt a special needs child can also receive a tax credit up to \$10,000 for nonrecurring expenses paid. These sections, starting January 1, 2022, would remove the restriction that this tax credit be only for the adoption of special needs children and will allow for the adoption of any child.

The current cap is set at \$2 million annually but can be adjusted based on appropriation by the General Assembly.

DOR provides the following information on what has been redeemed each of the last few fiscal years.

Year	Total Redeemed
FY 2020	\$29,404.00
FY 2019	\$19,185.00
FY 2018	\$88,706.00
FY 2017	\$127,211.00
FY 2016	\$231,367.00
FY 2015	\$380,715.00
FY 2014	\$718,495.00
FY 2013	\$744,155.00
FY 2012	\$1,036,226.00
TOTALS	\$3,375,464.00

These sections modify the existing special needs adoption tax credit program. These sections change the name on the credit from the Special Needs Adoption Tax Credit to the Adoption Tax Credit program. This provision does not have a fiscal impact on DOR.

These sections add a definition of child. That definition includes individuals over the age of 18 that are unable to physically or mentally take care of themselves. These sections also modify the definition of disability. These provisions do not pose any concerns to DOR as it will be the responsibility of the Missouri Department of Social Services to determine if a child qualifies for the tax credit.

Currently, a taxpayer or a business can qualify for a tax credit, but only if the qualifying child is first a resident of this state, and secondly is either a ward of the state or a special needs child. Starting January 1, 2022, these sections no longer require that the child to be a resident of this state, or be required to be a ward of the state or special needs child. DOR assumes based on the past history of the program that expanding the number of adopted children that qualify for this program may increase participation in this program. Additionally, these sections, starting July 1, 2021, will increase the annual cap of \$2 million to \$6 million annually. Therefore, DOR assumes an additional fiscal impact of \$4 million from this program starting in Fiscal Year 2022.

These sections add language requiring that priority for claiming the credit be given to taxpayers who adopt special needs children or children that are wards of the state. This would require the Missouri Department of Social Services to determine the priority status of each child and with the increased cap, they would be responsible for maintaining a list of qualified applicants and ensure they distribute the tax credits in accordance with the priority statutory requirements. DOR would continue to process each return that has an approved application from the Missouri Department of Social Services as it currently does.

Total Fiscal Impact from Adoption Tax Credit:

Fiscal Year	General Revenue
2022	(\$4,000,000)
2023	(\$4,000,000)
2024	(\$4,000,000)

DOR anticipates the need for one (1) FTE Associate Customer Service Representative for every 4,000 apportioned credits redeemed, one (1) FTE Associate Customer Service Representative for every 4,000 tax credit transfers with CISCO phone licenses, and one (1) FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated.

DOR further notes the changes made to these sections will result in DOR implementing programming and system changes, along with updates to forms and DOR's website. DOR notes these changes can be absorbed with existing resources.

Oversight notes the Missouri Department of Revenue anticipates the need for three (3) FTE Associate Customer Service Representatives as a result of the changes made under Section(s) 135.325, 135.326, 135.327, and 135.335.

Oversight assumes the minimum number of taxpayers that could claim this tax credit annually at could be 600 (\$6,000,000 (updated cap) / \$10,000). In addition, the Missouri Department of Revenue indicates much of the change(s) in responsibility will fall within the Missouri Department of Social Services. Therefore, **Oversight** assumes the Missouri Department of Revenue can continue to administer this tax credit program with existing resources. Should the Missouri Department of Revenue experience the number of redemptions, transfers, and/or errors generated to justify additional FTE, the Missouri Department of Revenue may seek additional FTE through the appropriations process.

Officials from the **Missouri Department of Commerce and Insurance** anticipate a potential unknown decrease of premium tax revenues (up to the tax credit limit established in the proposed legislation) as a result of the change to the “Adoption Tax Credit Act” tax credit. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year and which insurers will qualify for the tax credit proposed.

Oversight notes Section(s) 135.325, 135.326, 135.327, and 135.335 change all reference(s) to the “Special Needs Adoption Tax Credit” to the “Adoption Tax Credit”.

Oversight notes Section 135.326 adds a definition of “Child”. The definition of “Child” is “any individual who: has not attained an age of at least eighteen years; or is eighteen years of age or older but is physically or mentally incapable of caring for himself or herself”.

Oversight notes Section 135.326 modifies the definition of “Special Needs Child”. The current definition “Special Needs Child” is “a child for whom it has been determined by the children’s division, or by a child-placing agency licensed by the state, or by a court of competent jurisdiction to be a child: that cannot or should not be returned to the home of his or her parents; and who has a specific factor or condition such as ethnic background, age, membership in a minority or sibling group, medical condition, or handicap because of which it is reasonable to conclude that such child cannot be easily placed with adoptive parents”.

The modified definition of “Special Needs Child” becomes “a child for whom it has been determined by the children’s division, or by a child-placing agency licensed by the state, or by a court of competent jurisdiction to be a child that cannot or should not be returned to the home of his or her parents; and who has a specific factor or condition such as age, membership in a sibling group, medical condition or diagnosis, or disability because of which it is reasonable to conclude that such child cannot be easily placed with adoptive parents”.

Oversight notes Section 135.326 renames the current definition of “Handicap” to “Disability”.

Currently, pursuant to Section 135.327, the Special Needs Adoption Tax Credit is limited to adoptions of special needs children who are residents or wards of residents of Missouri at the time the adoption is initiated.

Section 135.327 is modified by removing the requirement(s) that such child being adopted be a special needs child and a resident or ward of a resident of Missouri. Therefore, Oversight assumes the modification(s) will allow a tax credit to be awarded to residents of this state who adopt any child or to a business who provides the funds necessary for an employee to adopt any child.

Oversight notes Section 135.327 is further modified to state that priority shall be given to applications to claim the tax credit for special needs children who are residents or wards of residents of this state at the time the adoption is initiated.

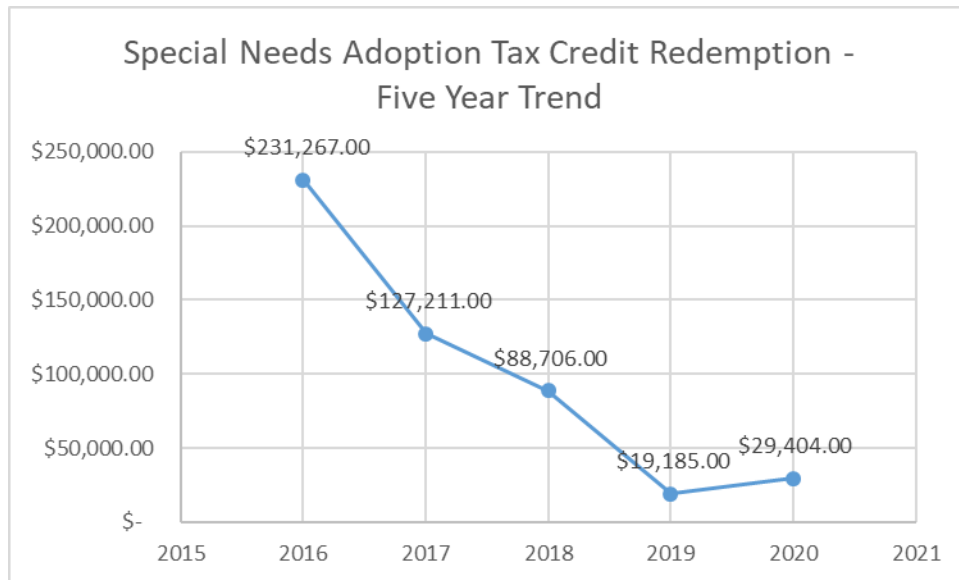
Oversight notes, currently, pursuant to Section 135.327, the tax credit program has a cumulative cap of \$2,000,000. Oversight notes Section 135.327 is modified to increase the cap from \$2,000,000 to \$6,000,000 for all fiscal years beginning on or after July 1, 2021 (Fiscal Year 2022).

Oversight assumes participation in the tax credit program pursuant to Section(s) 135.325, 135.326, 135.327 and 135.335 could increase as a result of the reduced/lessened requirements needed to qualify for the tax credit.

Oversight notes, per the Tax Credit Analysis submitted by the Missouri Department of Revenue, the Special Needs Adoption Tax Credit program had the following activity as it is currently administered:

Special Needs Adoption Tax Credit	FY 2018 ACTUAL	FY 2019 ACTUAL	FY 2020 ACTUAL	FY 2021 (year to date)	FY 2021 (Full Year – est.)	FY 2022 (Budget Year – est.)
Amount Redeemed	\$88,706	\$19,185	\$29,404	\$0	\$45,000	\$45,000

Oversight notes, based on the information included in the Tax Credit Analysis, the three (3) year average (2018 – 2020) amount of Special Needs Adoption Tax Credit claimed and allowed on tax returns is \$45,765. Oversight further notes the five (5) year average (2016 – 2020) amount of Special Needs Adoption Tax Credit claimed and allowed on tax returns is \$99,155. Below is a visualization showing the five year redemption trend for the Special Needs Adoption Tax Credit:



Oversight assumes much of the downward trend recognized above is a result of [Senate Bill\(s\) 20, 15, and 19 of the 2013 Regular Session](#) which modified the Special Needs Adoption Tax Credit program by prohibiting the Special Needs Adoption Tax Credit for the adoption of non-resident children.

Oversight assumes the modifications to the tax credit program pursuant to Section(s) 135.325, 135.326, 135.327 and 135.335 will likely cause an upward trend in the total amount of tax credits redeemed.

Oversight notes, per the Tax Credit Analysis, the Missouri Department of Revenue estimates that the total amount of Special Needs Adoption Tax Credit that will be claimed and allowed on tax returns during Fiscal Year 2022 totals \$45,000.

Oversight notes all of the modifications to the Special Needs Adoption Tax Credit would begin January 1, 2022, except for the increase in the cumulative cap (from \$2,000,000 to \$6,000,000) which will begin July 1, 2021 (Fiscal Year 2022).

As a result of the most recent activity recognized under the Special Needs Adoption Tax Credit program, **Oversight** does not anticipate the increase to the cumulative cap will result in a fiscal impact until all other modifications to the Adoption Tax Credit program become effective; Oversight does not anticipate a fiscal impact will occur in Fiscal Year 2022.

As stated above, **Oversight** notes all modifications to the tax credit program pursuant to Section(s) 135.325, 135.326, 135.327, and 135.335 (except for the increase in the cumulative cap) will begin January 1, 2022. Oversight notes tax returns for Tax Year 2022 will not be filed until after January 1, 2023 (Fiscal Year 2023).

Therefore, for purposes of this fiscal note, **Oversight** will show a revenue reduction to General Revenue equal to a range, beginning at \$0 (participation in the tax credit program does not change) to the difference between the new tax credit cap of \$6 million and the estimated Fiscal Year 2022 redemption amount (\$45,000), as estimated by the Missouri Department of Revenue, beginning in Fiscal Year 2023.

Section 135.800 – Tax Credit Accountability Act

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this section would remove “special needs” from the adoption credit. B&P notes that this provision will not impact Total State Revenue(s) or the calculation under Article X, Section 18(e).

Officials from the **Missouri Department of Revenue (DOR)** state this section updates the name of the Special Needs Adoption tax credit program as it is referenced in the Tax Credit Accountability Act. This provision does not fiscally impact DOR.

Oversight notes Section 135.800 changes all reference(s) of the Special Needs Adoption Tax Credit to become the “Adoption Tax Credit”. Oversight does not anticipate a fiscal impact as it relates to the modification to the aforementioned references. Therefore, Oversight will not report a fiscal impact as it relates to this section.

Section 143.1170 – Foster Care Tax Deduction

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this section would grant foster parents an income tax deduction for the costs incurred related to providing care as a foster parent, beginning with Tax Year 2022. The total amount that may be granted is \$5,000 per foster care home, if such individuals have been a foster parent for at least six (6) months during the tax year. Individuals who have been foster parents for less than six months will be granted a pro rata portion of the maximum deduction. The following table shows the value of the tax deduction based on the length of fostering during a tax year.

Length of Fostering	Deduction
1 month	\$833
2 months	\$1,667
3 months	\$2,500
4 months	\$3,333
5 months	\$4,167
6 months or more	\$5,000

Based on information provided by the Missouri Department of Social Services, there are 13,875 children currently placed in 6,338 foster or relative home placements. There are 4,077 two (2) parent foster homes and 2,261 one (1) parent foster homes. For the purpose of this fiscal note, B&P assumes that two (2) parent foster homes will file as married and one parent foster homes will file as single. Therefore, B&P estimates that 64.3% of foster homes are married filing joint and 35.7% are single.

Based on additional information provided by the Missouri Department of Social Services, there are currently 1,881 foster homes with placements less than six (6) months. There are 4,457 foster homes with placements longer than six (6) months.

Using the information and estimates above on the percent that are single versus married, B&P estimates that approximately 671 single individuals and 1,210 married individuals would qualify for a portion of the maximum deduction. B&P further estimates that approximately 1,590 single and 2,867 married foster parents will qualify for the maximum deduction.

B&P does not have information on the length of placements for foster homes that have operated for less than six (6) months. Therefore, B&P will show a range where all foster parents qualify for one (1) month of the deduction (\$833) and where all foster parents qualify for five (5) months of the deduction (\$4,167). The following table shows the total estimated deductions that may be claimed during a tax year.

Foster Homes	Total Deduction	
	Low	High
Number Fosters < 6 months	\$1,567,500	\$7,837,500
Number Fosters > 6 months	\$22,285,000	
Total Estimated Deduction Claims	\$23,852,500	\$30,122,500

However, deductions do not reduce revenues on a dollar for dollar basis, but rather in proportion to the top tax rate applied. Therefore, B&P will show the estimated impacts throughout the implementation of the tax rate reductions from SB 509 (2014).

Tax Rate	5.4%	5.3%	5.2%	5.1%
Low Estimate	\$1,288,035	\$1,264,183	\$1,240,330	\$1,216,478
High Estimate	\$1,626,615	\$1,596,493	\$1,566,370	\$1,536,248

Therefore, B&P estimates that this section could reduce Total State Revenue(s) and General Revenue by \$1,288,035 to \$1,626,615 (top tax rate 5.4%) or by \$1,264,183 to \$1,596,493 (top tax rate 5.3%) in Fiscal Year 2023. Once SB 509 (2014) has fully implemented, this section could reduce Total State Revenue(s) and General Revenue by \$1,216,478 to \$1,536,248 annually.

Officials from the **Missouri Department of Revenue (DOR)** state, for all tax years beginning on or after January 1, 2022, a taxpayer shall be allowed a deduction for expenses incurred directly by the taxpayer in providing care as a foster parent to one or more children in this state. The deduction cannot exceed \$5,000 per tax return for singles and married filing joint returns, and \$2,500 for married filing separate returns for those children in the taxpayer's custody for more than 6 months. The deduction amount shall be on a pro rata basis determined by DOR if the child is placed for less than 6 months.

DOR notes that if at 6 months a person gets the full \$5,000 as a filer then the proportional share would be approximately \$833 per month the child is in the home. DOR assumed the monthly amounts as follows:

	Filer
1 month	\$833
2 months	\$1,667
3 months	\$2,500
4 months	\$3,333
5 months	\$4,167
6 month	\$5,000

The Missouri Department of Social Services provided the following information regarding the foster care program:

- The total number of kids in foster care as of 11/30/2020 were 13,875.
- The number of kids in a foster home or relative placement for more than 6 months 6,087
- The number of kids in a foster home or relative placement for less than 6 months 4,950
- The number of foster homes or relative homes serving those kids 6,338
- Number of single person foster homes 2,261
- Number of two person foster homes 4,077
- Number of foster homes that served kids less than 6 months 1,881
- Number of foster homes that served kids more than 6 months 4,457

Using the information provided by the Missouri Department of Social Services, DOR was able to make the following assumptions to calculate the impact.

This section begins with the tax year starting January 1, 2022. The first returns filed claiming the deduction would start being received January 2023 (Fiscal Year 2023).

A deduction is not a reduction of tax on a dollar for dollar basis but on a proportional basis based on the Individual Income Tax rate.

Using the number of foster homes, DOR was able to apportion the number of kids in the foster homes over/under six months to each taxpayer filing category.

Foster Homes	Number
Number Fosters < 6 months	1,881
Number Fosters > 6 months	4,457

Since this section allows taxpayers who have fosters kids more than 6 months to claim the maximum amount (\$5,000), DOR was able to determine that the 4,457 filers could claim \$22,285,000 (4,457 * \$5,000). Since foster homes that have kids less than 6 months can claim a deduction in a proportional amount, DOR had to estimate a range for these filers. DOR estimated an impact for the filers of \$1,567,500 (1 month) to \$7,837,500 (for 5 months).

This results in a combined loss \$23,852,500 to \$30,122,500. Applying the 5.3% tax rate would result in a loss to General Revenue of \$1,264,183 to \$1,596,493.

Fiscal Year	Low Loss to GR	High Loss to GR
2022	\$0	\$0
2023	(\$1,264,183)	(\$1,596,493)
2024	(\$1,264,183)	(\$1,596,493)

DOR anticipates the need for one (1) FTE Associate Customer Service Representative for every 14,700 errors created, one (1) FTE Associate Customer Service Representative for every 5,700 pieces of correspondence generated, one (1) part time employee for the new line item on tax forms, and a one-time cost of \$2,000 for forms and programming changes.

Oversight notes DOR anticipates the need for two (2) FTE Associate Customer Service Representatives, one (1) part time employee, and a one-time cost of \$2,000 for forms and programming changes.

Based on the estimates provided by DOR, the maximum number of returns in which the deduction would be claimed on totals 6,338. This is significantly less than the 14,700 errors needed to justify additional FTE. Oversight further assumes not every return will cause correspondence to be generated.

Therefore, for purposes of this fiscal note, **Oversight** assumes DOR can absorb the responsibilities associated with this new deduction with existing resources. Should DOR experience the number of errors and/or correspondence to justify additional FTE, DOR may seek additional FTE through the appropriation process.

Oversight notes Section 143.1170 creates an Individual Income Tax deduction for the expenses directly incurred by a taxpayer for providing care as a foster parent to one or more children. The Individual Income Tax deduction created is for all tax years beginning on or after January 1, 2022 and shall be equal to the amount of expenses directly incurred providing care as a foster parent, but may not exceed \$5,000 for individuals who file with a single filing status or file as married filing combined and \$2,500 for individuals who file married filing separately, provided such taxpayer(s) provides care as a foster parent for at least six (6) months during the tax year. Should such taxpayer(s) provide care as a foster parent for less than six (6) months during the tax year, the deduction shall be equal to a pro-rata amount which will be calculated using the maximum deduction(s) of \$5,000 and \$2,500.

Oversight notes the Missouri Department of Revenue and the Missouri Department of Social Services (Children's Division) are to collaborate to establish and implement the procedures necessary to verify that a taxpayer is a foster parent.

Each taxpayer claiming the deduction created shall file an affidavit with the taxpayer's tax return affirming that the taxpayer is a foster parent and that the taxpayer is entitled to the deduction in the amount claimed on the tax return filed.

Oversight notes pre-tax deductions do not reduce revenue(s) on a dollar-for-dollar basis. Rather, the deduction must be multiplied by the taxpayer's applicable tax rate to determine the tax savings recognized by the taxpayer and the loss in revenue(s) recognized by the State of Missouri.

The current Individual Income Tax rate is subject to be reduced by one-tenth of one percent (0.1%) three (3) more times pursuant to [SB 509 \(2014\)](#). A reduction in the rate of tax shall only occur if the amount of net general revenue collected in the previous fiscal year exceeds the highest amount of net general revenue collected in any of the three fiscal years prior to such fiscal year by at least \$150 million.

The Individual Income Tax rate for Tax Year 2021 is 5.4%.

Oversight anticipates the Individual Income Tax rate will be reduced from 5.4% to 5.3% for Tax Year 2022. This assumption is largely based on the extended tax filing due date for Tax Year 2019 which pushed revenues that would have normally be recognized in Fiscal Year 2020 into Fiscal Year 2021.

Provided the tax rate is reduced from 5.4% to 5.3% for Tax Year 2022, two (2) more rate reductions could occur in future, but separate, tax years, pursuant to SB 509 (2014).

Oversight does not anticipate Fiscal Year 2024 will be impacted by **additional** rate reductions. Therefore, for purposes of this fiscal note, the fiscal impact for **each** fiscal year, as it relates to this section, will be reported using an Individual Income Tax Rate of 5.3%.

For purposes of this fiscal note, **Oversight** will report the fiscal impact (range), as a result of the tax deduction, as reported by B&P and DOR when using a tax rate equal to 5.3%, beginning in Fiscal Year 2023.

Section 191.975 – Adoption Awareness Law

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this section would remove “special needs” from references to the adoption tax credit. B&P notes that this provision will not impact Total State Revenue(s) or the calculation under Article X, Section 18(e).

Officials from the **Missouri Department of Revenue (DOR)** state this section updates the name of the Special Needs Adoption tax credit program as it is referenced in the Adoption Awareness Law. This provision does not fiscally impact DOR.

Oversight notes Section 191.975 changes all reference(s) of the Special Needs Adoption Tax Credit to become the “Adoption Tax Credit”. Oversight does not anticipate a fiscal impact as it relates to the modification to the aforementioned references. Therefore, Oversight will not report a fiscal impact as it relates to this section.

Section(s) 193.075, 210.150, and 210.156 – Birth Match Program

Officials from the **Missouri Department of Health and Senior Services (DHSS)** state, per information provided by the Missouri Department of Social Services, an average of 2,185 parents have their rights terminated per year in Missouri. Based on the anticipated number of data requests, 0.5 FTE would be required to handle the additional duties. The average annual salary of a Research/Data Analyst in the Division of Community and Public Health is \$46,651 as of January 1, 2021. The duties of a Research/Data Analyst would include matching the list of individuals whose identifying information was provided to DHSS by the Missouri Department of Social Services databases through complex programming queries and working with other units to ensure linkage of information across entities in an accurate manner.

In response to similar legislation (HB 432), **Oversight** contacted DHSS staff regarding changes to staffing and ITSD costs provided for similar provisions found in HCS HB 2216 (2020). In that fiscal note response, DHSS assumed 1 FTE Public Health Data Technician I (\$29,448) would be needed to maintain a list of individuals whose identifying information was provided by the DSS, searching for the information and documentation, and processing the vital record information for submission to DSS. In addition, approximately \$41,040 in ITSD costs for changes to the electronic vital record keeping system was going to be required.

DHSS officials stated that, after further research for the current proposal, it was determined the task required by this proposal could be accomplished by having a research analyst use a linkage process the Bureau of Vital Records already has the capability of performing (thus, no ITSD costs), rather than someone having to go through each record manually. However, the work would be done by a different bureau and would require a higher skilled position to perform the process (complex programming queries).

Generally, **Oversight** assumes departments have the ability to absorb limited increases in duties by existing staff. However, DHSS officials stated the DCPH does not currently have the capacity to absorb even 0.5 FTE of a Data/Research Analyst. Therefore, for fiscal note purposes, Oversight will present DHSS' request for 0.5 FTE Research/Data Analyst in the Division of Community and Public Health (\$46,651) as of January 1, 2022. However, Oversight assumes 0.5 FTE would not be provided fringe benefits (health insurance, sick leave, vacation, etc.) and the stated would only pay Social Security and Medicare benefits of 7.65 percent. In addition, Oversight assumes the DHSS would not need additional rental space for 0.5 FTE. However, if multiple proposals pass during the legislative session requiring additional FTE, cumulatively the effect of all proposals passed may result in the DHSS needing additional rental space.

Officials from **OA, ITSD/DSS** stated this proposed legislation would require them to build a new interface with DHSS based on the current Missouri's Family Care Safety Registry (FCSR) process that would allow DHSS to query the Family and Children Electronic System (FACES) based on a Departmental Client Number (DCN) that has been entered. The new process will be similar but have additional edits and queries to check for TPRs and guilty verdicts.

OA, ITSD/DSS assumes every new IT project/system will be bid out because all ITSD resources are at full capacity. IT contract rates for FACES are estimated at \$95/hour. It is assumed the necessary modifications will require 649.73 hours for a cost of \$61,724 (649.73 * \$95), split 50% GR; 50% Federal in FY22. Ongoing support and maintenance costs are estimated to be \$12,652 in FY23 and \$12,970 in FY24, split 50% GR; 50% Federal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by ITSD/DSS for fiscal note purposes.

Oversight notes, currently, pursuant to Section 193.075, each parent shall furnish to the Registrar the Social Security number(s) issued to the parent (unless deemed unnecessary for good cause). The Registrar shall then make such Social Security numbers available to the Family Support Division within the Missouri Department of Social Services. The Family Support Division shall not use any Social Security number furnished to it for any purpose other than for the establishment and enforcement of child support obligations.

Oversight notes Section 193.075 is modified so that Registrar shall make such Social Security numbers also available to the Children's Division within the Missouri Department of Social Services. The Children's Division shall not use any Social Security number furnished to it for any purpose other than verifying the identity of a parent of a child whose birth record information is provided under Section 210.156.

Oversight notes Section 210.150 expands the number of persons that shall have access to investigation records contained in the central registry to include the State Registrar of Vital Statistics. The information made available to the State Registrar of Vital Statistics shall be limited to identifying information only for the purposes of providing birth record information under Section 210.156.

Oversight notes Section 210.156 states the Children's Division within the Missouri Department of Social Services shall make available to the State Registrar of Vital Statistics the identifying information of whom the Children's Division has knowledge: 1) individuals whose parental rights have been terminated and who are identified in the central registry as having a finding by the Children's Division or a court adjudication of child abuse or neglect within the previous ten years, and 2) individuals identified in the central registry who have pled guilty or have been found guilty, within the previous ten years, of an offense, as defined.

Section 210.156 states the State Registrar shall provide to the Children's Division the birth record information born to individuals whose identifying information has been provided to the State Registrar. The Children's Division shall verify that the parent of the child is the same individuals whose identifying information was provided and, if the parent's identity has been verified, shall provide the appropriate local office with information regarding birth of the child. The local office shall initiate contact with the family to determine if the parent or family has a need for services and provide such voluntary and time-limited services as appropriate.

Section 210.156 state the Children's Division and the State Registrar shall ensure the confidentiality of all identifying information and birth records and shall not disclose such information and records.

Officials from the **Missouri Department of Revenue (DOR)** state these sections will not fiscally impact DOR.

Section 452.375 – Child Custody

Oversight notes Section 452.375 is modified to allow the court to award custody to a person related by consanguinity to the child when both parents are deemed unfit and the court is determining third party custody priority.

Officials from the **Missouri Department of Revenue (DOR)** state these sections will not fiscally impact DOR.

Section(s) 211.447, 453.014, 453.030, 453.040, & 453.070 – Child Placement

Oversight notes Section 211.447 states the court may make a finding that a child has been abandoned if, for a period of sixty (60) days when the child was under one year of age, the parent willfully, substantially, and continuously neglected to provide the child with necessary care and protection or, if the child is over one year of age, for a period of six (6) months immediately prior to the filing of the petition for termination of parental rights willfully, substantially, and continuously neglected to provide the child with necessary care and protection.

Section 211.447 adds additional felonies to the current list of felonies for which a parent, if guilty and the victim was a child, as defined, shall lose parental rights and gives the juvenile officer and the Children's Division the discretion to file a petition to terminate parental rights if a child has been in foster care for fifteen (15) months out of the previous twenty-two (22) months.

Oversight notes, currently, pursuant to Section 453.014, all persons granted the authority to place a minor child for adoption shall comply with the rules and regulations promulgated by the Missouri Department of Social Services and the Missouri Department of Health and Senior Services for such placement.

Section 453.014 is modified to remove the Missouri Department of Health and Senior Services and specifies that such persons are required to comply with the rules and regulations promulgated by the Children's Division within the Missouri Department of Social Services.

Oversight notes, currently, pursuant to Section 453.030, a birth parent, including a birth parent less than eighteen years of age, shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process.

Section 453.030 is modified to remove the requirement that adoption legal fees incurred by the birth parent be paid for by the prospective adoptive parent(s).

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state Section 453.030 eliminates the requirement that adoptive parents or the relevant child placing agency bear the cost of attorney fees incurred during the adoption process by the birth parents. The section does not make clear who or what entity will be responsible for compensating birth parents for the cost of attorney fees. This section will have no direct impact on B&P and will not impact the calculation pursuant to Article X, Section 18(e).

B&P assumes that legal representation appointed by the court for birth parents during the adoption process will be provided pro bono. In the event that these services are not provided pro bono, B&P assumes that the cost of legal fees will be borne by some other entity which could include the State of Missouri.

Oversight notes, currently, pursuant to Section 453.040, consent to the adoption of a child is not required by the parent of the child if the child is under the age of one and the parent, for at least six (6) months, has neglected to provide the child with necessary care and protection.

Section 453.040 modifies the child's age for which consent is not required.

Oversight notes Section 453.070 is modified so that all references of "the Department" become the Children's Division.

Officials from the **Missouri Department of Revenue** defer to the Children's Division within the Missouri Department of Social Services to report the fiscal impact, as it relates to these sections.

Legislation as a Whole –

Officials from the **Missouri Department of Social Services (DSS)** assume the following:

Officials from the Division of Legal Services (DLS) assume this proposed legislation will increase the need for DLS services in litigation (1 FTE), and require one (1) FTE Special Counsel for Children's Division. DLS defers to the Children's Division on the potential impact(s) related to the addition of Section 210.516 and changes to the age of an infant child in Section 211.447.

Officials from the Children's Division (CD) state this proposed legislation will fiscal impact CD as an additional two (2) FTE Investigative Children's Service Workers, one (1) Alternative Care Children's Service Worker, one (1) Family Centered Services Children's Service Worker, and one (1) Children's Services Supervisor, and two (2) clerical staff would be needed to fulfill the requirements. The calculations of the FTE(s) and additional foster care needs are based on the following:

Based on the requirements of the proposed legislation, the number of Termination of Parental Rights (TPRs) was determined to be 530 from February 2020 to March 1, 2021. Of those 530 TPRs, CD estimated a potential 75% had the required POE finding, which was determined to be 398 cases. As further required in the proposed legislation, looking at the numbers over a ten year period, it brings the calculation to 3,975 cases.

Per the current census, women of child bearing age (ages 18-40), totaled 1,735,000 women. Based on that population, there were 72,000 live births in Missouri; this information was obtained from the Missouri Department of Health and Senior Services website. Based on these numbers, 4% of the population would have a child this year. 3,975 cases times 4% birth rate, equals an initiation of 165 additional contacts per year.

By dividing 365 days by the 45 day statute requirement that a report be concluded, and the twelve (12) investigations per worker ratio, a total of approximately 97 investigations per year would result from this proposed legislation. This creates a requirement for two (2) additional FTEs.

It is estimated that this proposed legislation may result in additional opening of Family Centered Services (FCS) cases. If 25% of the 165 initiated contacts result in a FCS case divided by the caseload ratio of 20 cases per caseload, it would result in two (2) additional FTEs being needed. There is the assumption that this legislation could result in additional need for funding for Alternative Care. In the broad assumption that 10% (that would not have otherwise come into alternative care) of the 165 initiated reports resulted in an alternative care case being opened, calculated by the 165 cases divided by the 15 case ratio per worker, this would result in an additional FTE needed for case management.

Oversight does not have information to the contrary. Therefore, Oversight will reflect the estimated cost(s), as provided by the Missouri Department of Social Services.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to SOS for administrative rules is less than \$5,000. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, officials also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what their office can sustain with their core budget. Therefore, they reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Joint Committee on Administrative Rules** assume this proposed legislation will not cause a fiscal impact beyond its current appropriation.

Oversight assumes JCAR will be able to administer any rules from this proposed legislation with existing resources.

Officials from the **Missouri Attorney General's Office**, the **Missouri Department of Corrections**, and the **State Public Defender**, the **Missouri Office of Prosecution Services**, and the **Office of State Courts Administrator** do not anticipate this proposed legislation will cause a fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will not report a fiscal impact for these organizations.

L.R. No. 0318S.06T

Bill No. Truly Agreed To and Finally Passed SS for SCS for HCS for HB 429

Page **21** of **26**

June 22, 2021

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Revenue Reduction</u> – Section 135.327 – Increased Participation In Adoption Tax Credit Program & Increase Of Cumulative Cap From \$2M to \$6M – p. 3-9	\$0	\$0 to (\$5,955,000)	\$0 to (\$5,955,000)
<u>Revenue Reduction</u> – Section 143.1170 – Income Tax Deduction For Child Foster Care Services – p. 9-14	\$0	(\$1,264,183) to (\$1,596,493)	(\$1,264,183) to (\$1,596,493)
<u>Cost</u> – DSS – Section(s) 193.075, 210.150, 210.156, 452.375, 211.447, 453.014 – 453.070 – p. 18-19			
Personnel Services	(\$288,020)	(\$349,080)	(\$352,571)
Fringe Benefits	(\$184,948)	(\$223,082)	(\$224,239)
Equipment & Expense	(\$111,332)	(\$68,634)	(\$70,350)
Foster Care	(\$40,452)	(\$49,756)	(\$51,000)
Total Cost – DSS	(\$624,752)	(\$690,552)	(\$698,160)
FTE Change - DSS	7.65 FTE	7.65 FTE	7.65 FTE
<u>Cost</u> – DHSS – Section 210.156 – p. 14-15			
Personnel Services	(\$19,438)	(\$23,559)	(\$23,794)
Fringe Benefits	(\$1,487)	(\$1,802)	(\$1,820)
Equipment & Expense	(\$10,871)	(\$2,948)	(\$3,022)
Total Cost – DHSS	(\$31,796)	(\$28,309)	(\$28,636)
FTE Change – DHSS	0.5 FTE	0.5 FTE	0.5 FTE
<u>Cost</u> – OA/ITSD-DSS – Section 210.156 – p. 15	(\$30,862)	(\$6,326)	(\$6,485)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$687,410)</u>	<u>(\$1,989,370) to (\$8,276,680)</u>	<u>(\$1,997,464) to (\$8,284,774)</u>

FEDERAL FUNDS			
<u>Cost – DSS – Section 210.156 – p. 18-19</u>			
Personnel Service	(\$6,220)	(\$7,539)	(\$7,614)
Fringe Benefits	(\$4,109)	(\$4,955)	(\$4,980)
Equipment & Expense	(\$1,384)	(\$1,243)	(\$1,274)
Foster Care	(\$20,226)	(\$24,878)	(\$25,500)
Total Cost – DSS	(\$31,939)	(\$38,615)	(\$39,368)
FTE Change - DSS	.35 FTE	.35 FTE	.35 FTE
<u>Income – Section 210.156 - OA/ITSD - Reimbursement For FACES System Changes – p. 15</u>	\$30,862	\$6,326	\$6,485
<u>Income – Section 210.156 – Program Reimbursement – p. 18-19</u>	\$31,939	\$38,615	\$39,368
<u>Cost – Section 210.156 – OA/ITSD- DSS – FACES System Changes – p. 15</u>	(\$30,862)	(\$6,326)	(\$6,485)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

This proposed legislation could positively impact any small business that provides the necessary funds to an employee to proceed with the adoption of a child in which, under current law, would not qualify for the Special Needs Adoption Tax Credit as the small business could utilize the tax credit to reduce or eliminate the small business's stated tax liability.

FISCAL DESCRIPTION

ADOPTION TAX CREDIT (Sections 135.325-135.335, 135.800, and 191.975 RSMo)

This bill renames and alters the current "Special Needs Adoption Tax Credit Act" to the "Adoption Tax Credit Act".

Currently, any person residing in this state who proceeds in good faith with the adoption of a special needs child who is a resident or ward of a resident of this state is eligible for a \$10,000 nonrefundable tax credit for nonrecurring adoption expenses for each child. Additionally, any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child is eligible to receive a tax credit of up to \$10,000 for nonrecurring adoption expenses for each child, except that only one \$10,000 credit is available for each special needs child that is adopted.

Beginning January 1, 2022, this bill removes the special needs and residency requirements for adoptions to be eligible for this tax credit. However, priority will be given to applications to claim the tax credit for special needs children who are residents or wards of residents of this state at the time the adoption is initiated. The bill changes the definition of "handicap" to "disability" and modifies the definition of "special needs child". The bill defines a "child" as any individual under 18 years old or over 18 but is physically or mentally incapable of caring for themselves.

Beginning with the fiscal year beginning July 1, 2021 this tax credit is capped at \$6 million per tax year.

FOSTER CARE EXPENSE TAX DEDUCTION (Section 143.1170)

For all tax years beginning on January 1, 2022, a taxpayer will be allowed a tax deduction for expenses incurred directly by the taxpayer in providing care as a foster parent to one or more children in this state. The amount of the deduction will be equal to the amount of expenses directly incurred by the taxpayer in providing such care. However, if the taxpayer provides care as a foster parent for at least six months during the tax year, the total amount of the deduction claimed under this bill will not exceed \$5,000 per taxpayer, or \$2,500 per individual if married and filing separately. If the taxpayer provides care as a foster parent for less than six months during the tax year, the maximum deduction limits described will still apply, but the limits will be reduced on a pro rata basis.

The Department of Revenue will collaborate with the Children's Division of the Department of Social Services in order to establish and implement a procedure to verify that a taxpayer claiming the deduction is a foster parent.

Each taxpayer claiming the deduction must file an affidavit with their income tax return. The affidavit will affirm that they are a foster parent and that they are entitled to the deduction in the amount claimed on their tax return.

BIRTH MATCH PROGRAM (Sections 193.075, 210.150 & 210.156)

This bill requires data sharing between the Children's Division within the Department of Social Services and the State Registrar's office to compare birth reports with reports of parents who have been convicted of certain crimes within the previous 10 years or have a termination of parental rights in order to provide services, if needed. The State Registrar shall provide to the Division the birth record information of children born to such individuals. The Division shall then verify the identity of the parent and if that identity is verified, the Division shall provide the appropriate local office with information regarding the birth of the child. Appropriate local Division personnel shall initiate contact with the family, or make a good faith effort to do so, to determine if the parent or family has a need for services and provide such voluntary and time-limited services as appropriate.

The Division shall document the results of such contact and services provided, if any, in the Division's information system. Identifying information and records created and exchanged under this bill shall be closed records and shall only be used as specified in the bill.

CHILD PLACEMENT (Sections 211.447, 453.014, 453.030, 453.040 & 453.070)

Currently, the juvenile officer or the Division must file a petition to terminate parental rights if a court has determined a child to be an abandoned infant and the juvenile officer or the Division has the authority to file a petition to terminate parental rights when a court has determined that an older child has been abandoned. For the purposes of the mandatory filing of a petition to terminate parental rights, this bill changes abandoned infant to abandoned child and changes the age threshold from one year or under to under two years old. For the purposes of the discretionary filing, the bill changes the age of the abandoned child from over one year to two years of age or older.

Under this bill, the court may make a finding that a child has been abandoned if, for a period of 60 days when the child was under one year of age, the parent willfully, substantially, and continuously neglected to provide the child with necessary care and protection; or, if the child is over one year of age, for a period of six months immediately prior to the filing of the petition for termination of parental rights willfully, substantially, and continuously neglected to provide the child with necessary care and protection. The bill also adds additional felonies to the current list of felonies for which a parent, if guilty and the victim was a child, shall lose parental rights and gives the juvenile officer and the Division the discretion to file a petition to terminate parental rights if a child has been in foster care for 15 months out of the previous 22 months.

Currently, persons who are granted with the authority to place minor children for adoption are required to comply with rules and regulations promulgated by the Department of Social Services and the Department of Health and Senior Services for placement. This bill removes the Department of Health and Senior Services and specifies that such persons are required to comply with the rules and regulations promulgated by the Children's Division within the Department of Social Services.

The bill repeals the requirement that adoption legal fees incurred by the birth parent be paid for by the prospective adoptive parents.

Currently, consent to the adoption of a child is not required by the parent of the child if the child is under the age of one and the parent, for at least six months, has neglected to provide the child with necessary care and protection. This bill changes the age from over one year old to three years of age or older.

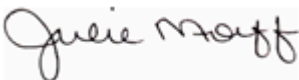
CHILD CUSTODY (Section 452.375)

This bill allows the court to award custody to a person related by consanguinity to the child when both parents are deemed unfit and the court is determining third party custody priority.


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

Missouri Attorney General's Office
Office of Administration – Budget & Planning Division
Missouri Department of Commerce and Insurance
Missouri Department of Health and Senior Services
Missouri Department of Corrections
Missouri Department of Revenue
Missouri Department of Social Services
Missouri Secretary of State's Office
State Public Defender
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Office of State Courts Administrator



Julie Morff
Director
June 22, 2021



Ross Strobe
Assistant Director
June 22, 2021