

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1354H.02C  
Bill No.: HCS for HB Nos. 557 & 560  
Subject: Children and Minors; Social Services, Department of  
Type: Original  
Date: March 1, 2021

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Bill Summary: This proposal establishes provisions relating to the protection of children.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
General Revenue	Could exceed (\$988,187)	Could exceed (\$937,303)	Could exceed (\$946,584)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Could exceed (\$988,187)</b>	<b>Could exceed (\$937,303)</b>	<b>Could exceed (\$946,584)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Criminal Records System Fund (0671)	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

Numbers within parentheses: () indicate costs or losses.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
General Revenue	Could exceed 11 FTE	Could exceed 11 FTE	Could exceed 11 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>Could exceed 11 FTE</b>	<b>Could exceed 11 FTE</b>	<b>Could exceed 11 FTE</b>

- ☒ 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Local Governments – County Health Departments</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

## **FISCAL ANALYSIS**

### ASSUMPTION

#### §§210.143 and 210.1283 – Residential care facilities; court petitions; investigations

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The enactment of new crimes creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

**Oversight** does not have any information to the contrary. Therefore, Oversight assumes MOPS will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the MOPS for fiscal note purposes. Oversight also assumes MOPS may seek additional appropriations if the proposal results in a significant increase in costs.

#### §210.1263 – Background checks on employees, volunteers, etc. at the home

Officials from the **Department of Public Safety, Missouri Highway Patrol** state that FBI approved Missouri statutes that authorize entities to conduct both state and FBI fingerprint criminal record checks would require fees to be collected. The fiscal impact to the CJIS Division's Criminal Record Systems Fund (0671) depends on the number of fingerprint criminal record checks conducted. The fingerprint fee structure is outlined below.

The state fee for a fingerprint based criminal record check is \$20.00 per request.  
The federal fee for a fingerprint based criminal record check is \$13.25 per request, of which, the CJIS Division retains \$2.00 of the federal fee. This equates to \$22.00 of the total state and federal fingerprint background check fee that is retained in the Criminal Record System Fund per request.

The authorized entity may choose to utilize the Missouri Automated Criminal History System (MACHS) and have fingerprinting completed by the state fingerprinting vendor. If this avenue is chosen, an additional fee of \$8.50 will be required by the vendor.

#### **State and Federal Fingerprint Fee Schedule**

State Fee = \$20.00

Federal Fee = \$13.25

Total State and Federal fee = \$33.25

Vendor Fee (if applicable) = \$8.50

Total State and Federal with Vendor fee = \$41.75

Total Retained in the Criminal Record System Fund = \$22.00

**Oversight** does not have information to the contrary. Oversight notes that currently, the number of residential children's homes operating in Missouri and the number of individuals employed by them are unknown. Therefore, Oversight will reflect an unknown income amount to the Criminal Records System Fund (0671).

§210.1265 – Child residential homes to comply with specified inspections

Officials from the **Columbia/Boone County Public Health & Human Services (PHHS)** state the proposed §210.1265 requires child residential homes to comply with all fire, safety, health, and sanitation inspections required under §210.252. PHHS currently performs inspections under §210.252 for childcare facilities. These inspections are performed under contract from the Missouri Department of Health and Human Services (DHSS). If PHHS will be expected to perform the inspections of the child residential homes, that will represent an unknown cost because we have no way of knowing how many such homes there are, nor whether DHSS will reimburse PHHS for the inspections, nor whether the reimbursement will cover the entire cost of the inspection.

**Oversight** does not have information to the contrary and therefore, Oversight will reflect the negative unknown estimates as provided by the PHHS.

§210.1271 – Injunctive relief to cease the operation of a residential care facility when...

Officials from the **Attorney General's Office (AGO)** state this section requires the AGO to represent DSS in proceedings related to injunctions of restraining orders against child residential homes. It is unknown the number of cases that could be brought to the AGO by DSS where representation would be required. Currently the AGO does not participate in these types of cases and therefore would need to hire at least one attorney with experience in these matters. However, if the number of cases is substantial the need for additional Assistant Attorneys General is likely. The AGO anticipates the fiscal impact would be \$93,221 to unknown per full fiscal year beginning in FY22.

**Oversight** notes the AGO did not request an additional FTE in the previous version of this proposal. **AGO** officials explained that, after reviewing their agency's role in the responses from other agencies, they recognized the increased workload would create the need for an additional FTE.

**Oversight** does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the AGO as follows:

FY22: Could exceed (\$93,221)  
FY23: Could exceed (\$94,033)  
FY24: Could exceed (\$94,853)

Responses regarding the proposed legislation as a whole

Officials from the **Department of Social Services (DSS), Children's Division (CD)** state this bill establishes §210.143 stating the CD or prosecuting attorney (PA) may petition the circuit court for an order directing a child residential home as defined under §210.1253 that is the subject of an investigation of child abuse or neglect to present the child at a place and time designated by the court to a CD worker for an assessment of the child's health, safety, and well-being.

The time frames for CD to complete its investigation and notify the alleged perpetrator of its decision set forth in §§210.145, 210.152, and 210.183 shall be tolled from the date that CD files a petition for a subpoena until the information is produced in full, until such subpoena is withdrawn, or until a court of competent jurisdiction quashes such subpoena.

§210.1256 adds that DSS shall be the notification agency for all child residential homes, and DSS shall discharge as additional duties and responsibilities the provisions of §§210.1250-210.1286.

§210.1268 adds that when DSS is advised or has reason to believe that any residential care facility is operating without proper notification in accordance with §§210.1250 to 210.1286, it shall give the director of the residential care facility written notice by certified mail that such person shall file notification in accordance with §§210.1250 to 210.1286 within thirty days after receipt of such notice, or the department may request a court injunction as provided under §210.1271.

§210.1271.1 states that notwithstanding any other remedy, and under certain violations, DSS, the prosecuting attorney of the county where the facility is located, or the attorney general may seek injunctive relief to cease the operation of the residential care facility and provide for the appropriate removal of the children from the residential care facility and placement in the custody of the parent or legal guardian, the department, or any other appropriate entity in the discretion of the court.

DSS shall notify the Attorney General of any case in which DSS makes a referral to a juvenile officer for removal of a child from a residential care facility. The notification shall include any violations under this section.

§210.1280 adds that DSS shall maintain a list of all residential care facilities in compliance with §§210.1250 to 210.1286, and the list shall be provided upon request. The list shall also include information regarding how a person may obtain information about the nature and disposition of any child abuse reports at or related to the residential care facility.

CD does anticipate a potential fiscal impact if this bill is passed. Due to the number of child residential homes being unknown in the State of Missouri, it is difficult to project how the passing of this bill would fiscally impact programming. CD sees the potential need for additional full-time employees (FTEs) in the Residential Program Unit (RPU) as there would be

additional work requirements within this unit with this bill's addition of the child residential homes.

Allegations of abuse and neglect would be investigated by the Children's Division's Out of Home Investigation Unit (OHI). Due to the potential of increased reporting, the Children's Division OHI Unit proposes the need for two (2) additional staff.

The Children's Division would like to propose four (4) additional FTE's for handling the unlicensed facilities and will reevaluate the need for additional staff following the first year of implementation. The Children's Division would also like to propose two (2) additional staff for the OHI Unit. There would also be a potential need for clerical and supervisory staff. This is a total of six (6) additional Children's Service Workers, one (1) FTE supervisory position and one (1) FTE clerical position, for a total of (8) Children's Division FTEs.

**Oversight** notes the costs of the additional FTEs requested by CD is as follows:

- (6) Children's Service Workers with a starting salary of \$40,794 each will cost approximately \$413,000 per year in personal service and fringe benefit costs.
- (1) Administrative Support Assistant with a starting salary of \$31,238, will cost approximately \$56,000 per year in personal service and fringe benefit costs.
- (1) Social Service Unit Supervisor with a starting salary of \$55,584, will cost approximately \$88,000 per year in personal service and fringe benefit costs.

The **DSS, Division of Legal Services (DLS)** anticipates this bill will increase the need for DLS services in litigation and require significant special counsel hours to interpret the bill, draft regulations, and draft policy in concert with CD. DLS anticipates this proposal will require one (1) FTE special counsel. DLS also anticipates this proposal will also require at least one (1) FTE litigation attorney to advise and represent CD in child-welfare production proceedings; injunctive proceedings to halt operations at residential care facilities and for the removal and placement of children; and to defend additional Children's Division findings of child abuse or neglect in the circuit courts.

Each of these positions have a starting salary of \$60,000 and, together, will cost approximately \$190,000 per year in personal service and fringe benefit costs to CD.

**Oversight** notes DSS has not indicated that the costs of this proposal will be split between general revenue and Federal funds as they were in the previous version of this proposal. In discussions with DSS officials, Oversight learned DSS believes that federal funds would not be available due to the way the legislation is currently written. Oversight does not have information to the contrary; therefore, Oversight will reflect the estimates as provided by DSS.

Officials from the **Office of State Public Defender (SPD)** state, for the purpose of the proposed legislation, and as a result of excessive caseloads, the SPD cannot assume existing staff will be able to provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime(s) of class A misdemeanor concerning the protection of

children under Section 210.143. However, if this offense was classified as a class D misdemeanor, it would not qualify for public defender representation because it would be punishable by a fine only, and therefore there would be no impact on MSPD. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards. While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Missouri State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

**Oversight** assumes the SPD will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the SPD for fiscal note purposes.

Officials from the **Office of State Courts Administrator (OSCA)** state there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

**Oversight** does not have any information to the contrary. Therefore, Oversight assumes the OSCA will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the OSCA for fiscal note purposes. Oversight also assumes OSCA may seek additional appropriations if the proposal results in a significant increase in costs.

Officials from the **Department of Elementary and Secondary Education**, the **Department of Health and Senior Services**, the **Department of Public Safety**, **Division of Fire Safety**, the **Office of Administration**, the **Kansas City Health Department**, the **Kansas City Police Department**, the **Newton County Health Department** and the **St. Louis County Police Department** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to a previous version (HB 557), officials from the **Columbia Police Department**, the **Crestwood Police Department**, the **Springfield Police Department** and the **St. Louis County Health Department** each assumed the previous proposal would have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other local public health agencies, circuit clerks, sheriffs, police, fire protection districts, and associations were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State** notes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we 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 our office can sustain with our core budget. Therefore, we 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.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (12 Mo.)	FY 2023	FY 2024
<b>GENERAL REVENUE FUND</b>			
<u>Costs – DSS (§§210.143-210.1286)</u>			
Personal service pp. 5-6	(\$451,585)	(\$456,101)	(\$460,662)
Fringe benefits	(\$290,045)	(\$291,541)	(\$293,051)
Equipment and expense	(\$153,336)	(\$95,628)	(\$98,018)
Total <u>Costs</u> – DSS	(\$894,966)	(\$843,270)	(\$851,731)
FTE Change – DSS	10 FTE	10 FTE	10 FTE
<u>Costs – AGO (§210.1271)</u>	Could exceed...	Could exceed...	Could exceed...
Personal service p. 4	(\$60,770)	(\$61,378)	(\$61,991)
Fringe benefits	(\$32,450)	(\$32,655)	(\$32,862)
Total <u>Costs</u> – AGO	Could exceed (\$93,221)	Could exceed (\$94,033)	Could exceed (\$94,853)
FTE Change – AGO	Could exceed 1 FTE	Could exceed 1 FTE	Could exceed 1 FTE
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>Could exceed (\$988,187)</b>	<b>Could exceed (\$937,303)</b>	<b>Could exceed (\$946,584)</b>
Estimated net FTE Change on the General Revenue Fund	Could exceed 11 FTE	Could exceed 11 FTE	Could exceed 11 FTE



<u>FISCAL IMPACT – State Government - continued</u>	FY 2022 (12 Mo.)	FY 2023	FY 2024
<b>CRIMINAL RECORDS SYSTEM FUND (0671)</b>			
<u>Income</u> – MHP (§210.1263) Fees Collected From Background Checks p. 3	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON THE CRIMINAL RECORDS SYSTEM FUND</b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (12 Mo.)	FY 2023	FY 2024
<b>LOCAL GOVERNMENTS –County Health Departments</b>			
Costs – County Health Departments (§210.1265) Facility inspections	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - COUNTY HEALTH DEPARTMENTS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

FISCAL IMPACT – Small Business

**Department of Social Services** officials state this proposal requires previously unregulated license-exempt residential care facilities to register with DSS, conduct criminal background checks, and comply with certain health and safety inspections. DSS is unsure of how many of these entities exist; how many already comply with these health and safety regulations or already conduct the prescribed background screening requirements. These new requirements may impact small business residential children's homes (§§210.143, 210.1250, 210.1253, 210.1256, 210.1259, 210.1262, 210.1263, 210.1264, 210.1265, 210.1268, 210.1271, 210.1274, 210.1277, 210.1280, 210.1283, and 210.1286).

### FISCAL DESCRIPTION

This bill adds a process by which "child residential homes" as defined are required to notify DSS of their existence and compliance with provisions that protect the safety of the children in residence. These include; fire and safety inspections, local health department inspections, medical records for all residents, and information about schools serving the children.

It also specifies that the homes must conduct background checks of all employees and volunteers at the home and details the background check findings that will exclude people from working or volunteering in the home. When there are allegations of abuse or neglect in the home, the bill outlines how DSS can petition a court for an order for a home to present a child that is the subject of a child abuse investigation. The bill specifies that any case in which a referral is made to a juvenile officer for removal of a child, a referral will also be made to the Attorney General.

The bill further details that failure to comply with these provisions may result in fines, misdemeanor charges for failure to conduct background checks, and potential removal of children.

The bill specifies that DSS may promulgate necessary rules that include a fee to cover the cost of the notification process. However, it is not permitted to regulate any religious program, curriculum, or ministry.

The bill includes an emergency clause for immediate implementation to protect children (§§210.143, 210.1250, 210.1253, 210.1256, 210.1259, 210.1262, 210.1263, 210.1264, 210.1265, 210.1268, 210.1271, 210.1274, 210.1277, 210.1280, 210.1283, and 210.1286).

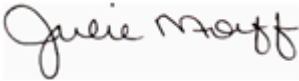
This proposal contains an emergency clause for all sections.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements. It would require additional rental space.

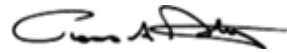
### SOURCES OF INFORMATION

Attorney General's Office  
Department of Elementary and Secondary Education  
Department of Health and Senior Services  
Department of Public Safety  
    Division of Fire Safety  
    Missouri Highway Patrol  
Department of Social Services  
Office of Administration  
Office of the Secretary of State  
Office of the State Public Defender  
Joint Committee on Administrative Rules

Missouri Office of Prosecution Services  
Office of the State Courts Administrator  
Columbia/Boone County Public Health & Human Services  
Columbia Police Department  
Crestwood Police Department  
Kansas City Health Department  
Kansas City Police Department  
Newton County Health Department  
Springfield Police Department  
St. Louis County Health Department  
St. Louis County Police Department



Julie Morff  
Director  
March 1, 2021



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