

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1354S.04T
Bill No.: Truly Agreed To and Finally Passed SS for HCS for HB Nos. 557 & 560
Subject: Attorney General; Children and Minors; Children's Division; Courts; Social Services, Department of
Type: Original
Date: June 10, 2021

Bill Summary: This proposal modifies provisions relating to residential care facilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	(\$1,572,087 to \$1,665,307)	(\$1,589,229 to \$1,683,262)	(\$1,604,983 to \$1,699,836)
Total Estimated Net Effect on General Revenue	(\$1,572,087 to \$1,665,307)	(\$1,589,229 to \$1,683,262)	(\$1,604,983 to \$1,699,836)

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			

Numbers within parentheses: () indicate costs or losses.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	19 to 20 FTE	19 to 20 FTE	19 to 20 FTE
Total Estimated Net Effect on FTE	19 to 20 FTE	19 to 20 FTE	19 to 20 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 Governments – County Health Departments	(Unknown)	(Unknown)	(Unknown)

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 (DPS), Missouri Highway Patrol (MHP)** state there is the very realistic potential for an increase in criminal background checks; however, the impact is unknown. Even though these facilities may not currently be required or notify the state, they still may be enrolled in the MOVECHS program due to the population they serve; however, their status would not be known.

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 notes that currently, the number of residential children's homes operating in Missouri and the number of individuals employed by them are unknown. While the number of persons falling under the fingerprinting requirement is unknown, it is expected to be minimal during the first year of implementation and then decline in subsequent years due to the National Rap Back Program, which provides ongoing monitoring of those persons already fingerprinted. The fees expected to be collected are negligible and not expected to have a material fiscal impact to DPS, MHP. Therefore, Oversight will reflect no fiscal impact for this agency.

§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 they 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 that although this section does not require the AGO to represent the DSS in this version, it still provides that the AGO may seek injunctive relief to obtain certain actions in certain circumstances while also allowing the Department of Social Services to notify the AGO of any case in which the department makes a referral to a juvenile officer for removal of a child from a residential care facility. It is unknown how many instances the AGO may be called upon to participate in these proceedings, therefore the AGO will maintain the original expected cost to the office. However, it could be reflected as \$0 to \$93,221.

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

FY22: \$0 to (\$93,221)

FY23: \$0 to (\$94,033)

FY24: \$0 to (\$94,853)

Responses regarding the proposed legislation as a whole

Officials from the **Department of Social Services (DSS), Children's Division (CD)** state §210.143 of this bill provides that the Children's Division, law enforcement, including the State Technical Assistance Team (STAT) and the prosecuting or circuit attorney, may petition the circuit court for an order directing an exempt from licensure residential facility that is subject of an investigation of child abuse or neglect to present the child at a place and time designated by the court to the Children's Division worker for an assessment of the child's healthy, safety, and well-being.

The legislation allows the Division of Legal Services (DLS) for CD to get court orders to produce children at license-exempt facilities for CD to assess a child's health, safety, and well-being. If CD finds reasons to suspect child abuse or neglect, the facility is required to produce the rest of the children in the facility. This legislation could be used for court ordered Child Advocacy Center interviews. CD would have to staff the child safety assessments, and CD may have to testify at some of these hearings.

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.

§210.493 requires background screenings for all staff of licensed residential care facilities and licensed child placing agencies. Under §210.1263, these background checks include, "Officers, managers, contractors, volunteers with access to children, employees, and other support staff of residential care facilities subject to the notification requirements under sections 210.1250 to 210.1286; any person eighteen years of age or older who resides at or on the property of such residential care facility; any person who has unsupervised contact with a resident of such residential care facility; and owners of such residential care facilities.

§210.493 further adds DSS shall be responsible for the background checks for residential care facilities or child placing agencies that apply for licensure, renewal of licensure or for license monitoring. DSS shall provide the results of the background checks to the applicant at the licensed facility or agency and shall not reveal to the residential facility or agency any disqualifying offense or other related information regarding the applicant. The applicant shall have the opportunity to appeal the ineligible finding. DSS is authorized to promulgate rules, including emergency rules to implement provisions of this section.

§210.1256 requires DSS to be the notification agency for all license exempt residential care facilities, and to fulfill the duties and responsibilities under the provisions of §§210.1250-210.1286.

§210.1271 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, or any other appropriate individual or entity in the discretion of the court, or refer the matter to the juvenile officer of the appropriate county for appropriate proceedings under Chapter 211.

§210.1283 states a person is guilty of a class B misdemeanor if such person subject to background check requirements knowingly fails to complete a background check, as described under §§210.493 and 210.1263, on any individual described under subdivision (1) of subsection 2 of §210.1263 and such individual is employed or volunteers at the residential care facility, resides at or on the property of the residential care facility, or has unsupervised contact with a resident at the residential care facility.

CD does anticipate a potential fiscal impact. 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 four (4) 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. 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.

There will also be a fiscal impact on the Children's Division as the responsibility of background checks will be placed with CD. The Children's Division anticipates the needs of an additional unit of five (5) FTEs with a supervisory position and a clerical position.

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

- (1) Children's Service Workers with a starting salary of \$40,794 each, and will cost approximately \$751,883 per year in personal service and fringe benefit costs.
- (2) Administrative Support Assistant with a starting salary of \$31,238 each, and will cost approximately \$111,264 per year in personal service and fringe benefit costs.
- (2) Social Service Unit Supervisor with a starting salary of \$55,584 each, and will cost approximately \$176,083 per year in personal service and fringe benefit costs.

Officials from the **DSS, Division of Legal Services (DLS)** anticipate this bill will require one (1) FTE special counsel to interpret the bill, draft regulations, and draft policy in concert with Children's Division.

DLS anticipates the Act will require two (2) FTE additional DLS litigation attorneys to advise and represent CD in child-health and safety assessment proceedings; injunctive proceedings to halt operations at residential care facilities; for investigative subpoenas; proceedings regarding the removal and placement of children; to defend additional Children's Division findings of child abuse or neglect in the circuit courts; and to advise CD on determinations of eligibility to be present or employed at licensed residential care facilities and child placing agencies and to be present or employed at license-exempt residential care facilities subject to the Act's notification requirements under §210.493.

DLS further anticipates the Act will require one (1) FTE attorney in hearings because of CD determinations regarding eligibility of those to be present or employed at licensed residential care facilities and child placing agencies and to be present or employed at license-exempt residential care facilities subject to the Act.

DLS anticipates the legislation will have a fiscal impact on Children's Division (CD). DLS defers to Children's Division (CD) to estimate the fiscal impact to CD, but notes CD may need additional staffing and training to: conduct the child health, safety and welfare assessments required by §210.143; investigate additional child abuse and neglect hotlines; conduct, monitor, track, and enforce the background-screening eligibility system (including individual notice and appeals requirements) and the notification and compliance requirements for entities newly required to register with the Department of Social Services (DSS); and draft required policies, forms, and regulations in concert with CD's special counsel.

DLS also anticipates CD may need multiple systems changes to implement the child health, safety and welfare assessments, the background-screening eligibility system; and the notification and compliance requirements.

Each of these positions have a starting salary of \$60,000 and, together, will cost approximately \$281,760 per year in personal service and fringe benefit costs to CD.

CD will also need one (1) FTE in hearings for CD determinations of eligibility to be present or employed at licensed residential care facilities and child placing agencies and to be present or employed at license-exempt residential care facilities subject. This position has a starting salary of \$55,584 and will cost approximately \$88,042 per year in personal service and fringe benefit costs to CD.

Oversight does not have information to the contrary. Oversight notes DSS stated they anticipate no fiscal impact to the Office of Administration (OA), Information Technology Services Division (ITSD)/DSS or to STAT. Oversight also notes that DSS presented their fiscal impact as best estimates, and may adjust their impact based on further review. Oversight assumes DSS may seek additional appropriations if the proposal results in a significant increase in costs. Therefore, Oversight will reflect the estimates as provided by DSS.

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 **Fruitland Area Fire Protection District** state they expect a positive impact for the protection of children and special populations. The verbiage in this proposal appears appropriate, complete and clear. They anticipate little or no fiscal impact to their fire district.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

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 **Office of the State Public Defender**, the **Kansas City Health Department**, the **Kansas City Police Department**, the **Newton County Health Department**, the **St. Joseph Police Department** and the **St. Louis County Department of Public Health** each assumed 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.

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, they 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 within 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.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (12 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Costs – DSS (§§210.143-210.1286)</u>			
Personal service pp. 5-7	(\$857,962)	(\$866,541)	(\$875,206)
Fringe benefits	(\$551,069)	(\$553,910)	(\$556,780)
Equipment and expense	(\$163,056)	(\$168,778)	(\$172,997)
Total <u>Costs – DSS</u>	<u>(\$1,572,087)</u>	<u>(\$1,589,229)</u>	<u>(\$1,604,983)</u>
FTE Change – DSS	19 FTE	19 FTE	19 FTE
<u>Costs – AGO (§210.1271)</u>	\$0 to...	\$0 to...	\$0 to...
Personal service p. 4	(\$60,770)	(\$61,378)	(\$61,991)
Fringe benefits	(\$32,450)	(\$32,655)	(\$32,862)
Total <u>Costs – AGO</u>	<u>\$0 to (\$93,221)</u>	<u>\$0 to (\$94,033)</u>	<u>\$0 to (\$94,853)</u>
FTE Change – AGO	0 to 1 FTE	0 to 1 FTE	0 to 1 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$1,572,087 to \$1,665,307)</u>	<u>(\$1,589,229 to \$1,683,262)</u>	<u>(\$1,604,983 to \$1,699,836)</u>
Estimated net FTE Change on the General Revenue Fund	19 to 20 FTE	19 to 20 FTE	19 to 20 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (12 Mo.)	FY 2023	FY 2024
LOCAL GOVERNMENTS –County Health Departments			
Costs – County Health Departments (§210.1265) Facility inspections p. 4	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - COUNTY HEALTH DEPARTMENTS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

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 such entities exist and whether this bill will deter such entities from continuing.

FISCAL DESCRIPTION

This bill adds a process by which an "exempt-from-licensure residential care facility" 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 creates a process for DSS to provide background checks for licensed residential care facilities or child placing agencies and for residential care facilities subject to notification requirements of sections 210.1250 to 210.1286, RSMo. The bill outlines what will make an applicant ineligible and provides applicants the right to appeal.

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.

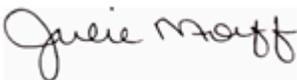
The bill further details that failure to comply with these provisions may result in fines, misdemeanor charges for failure to conduct background checks, and potential removal of children (§§210.143, 210.1250, 210.1253, 210.1256, 210.1259, 210.1262, 210.1263, 210.1264, 210.1265, 210.1268, 210.1271, 210.1274, 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
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Office of Administration
Office of the Secretary of State
Office of the State Courts Administrator
Office of the State Public Defender
Columbia/Boone County Public Health & Human Services
Fruitland Area Fire Protection District
Kansas City Health Department
Kansas City Police Department
Newton County Health Department
St. Joseph Police Department
St. Louis County Department of Public Health



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