

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0114H.03P  
 Bill No.: Perfected HB 81  
 Subject: Children's Division; Family Law; Department of Social Services; Law Enforcement Officers and Agencies  
 Type: Original  
 Date: March 9, 2023

Bill Summary: This proposal modifies provisions relating to required background checks of individuals employed by or associated with licensed residential care facilities, child placing agencies, or residential care facilities.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Criminal Record System*	Up to \$165,000 or (Unknown)	Up to \$198,000 or (Unknown)	Up to \$198,000 or (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Up to \$165,000 or (Unknown)</b>	<b>Up to \$198,000 or (Unknown)</b>	<b>Up to \$198,000 or (Unknown)</b>

\*Oversight assumes the fiscal impact to the Criminal Records System Fund would not reach the \$250,000 threshold.

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
<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>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</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>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

**Oversight** was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

### House Amendment 5 - Missouri Rap Back Program

#### §§43.539 and 43.540

In response to a similar proposal (HB 669), officials from the **Department of Public Safety (Missouri Highway Patrol, Office of the Director, Missouri Gaming Commission, Missouri National Guard, Missouri Veterans Commission, and State Emergency Management Agency)**, the **Department of Commerce and Insurance**, the **Department of Elementary and Secondary Education**, the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Social Services**, the **Missouri Department of Agriculture**, the **Missouri Department of Transportation**, the **Office of Administration**, the **Office of the State Auditor**, the **Missouri Lottery Commission**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, and the **Phelps County Sheriff's Department** assumed the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation from 2023 (SB 264), officials from the **Office of the State Courts Administrator** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this section of the proposal.

Upon further inquiry on another bill (Perfected HB 70), the **Missouri Highway Patrol** stated the impact to the Criminal Record System fund is unknown.

**Oversight** will show a range of impact to the Criminal Record System fund from this amendment of \$0 to an unknown loss from foregone fees for criminal record reviews. Oversight is uncertain how many criminal record reviews are completed due to the six year requirement; however, Oversight does not anticipate the impact to exceed the \$250,000 threshold.

### House Amendment 2 - Background check for Any Person 18 Years of Age or Older

§171.097

In response to a similar proposal, (SCS for SB 40), officials from the **Department of Elementary and Secondary Education (DESE)** assumed this section of the proposal would not fiscally impact their agency.

In response to a similar proposal (SB 40), officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** stated open records may be obtained by a name based or fingerprint based criminal record check. The fiscal impact is unclear as it cannot be determined which type of criminal record check would be conducted. Name-based criminal record checks are \$14.00 and fingerprint-based criminal record checks are \$20.00.

The estimated number of individuals seeking enrollment that would require an open records criminal records check is not known to the Patrol. The Patrol will rely on DESE to provide the projected number of individuals seeking enrollment that would require an open records criminal records check and what type of records check. Depending on what the individual school districts decide, the fiscal impact may be incurred by the district or the cost may be incurred by the individual, at the request of the district.

In response to a similar proposal from 2020 (HB 1483), officials from the **MHP** stated:

The Department of Elementary and Secondary Education anticipates that this legislation would impact a relatively low number of individuals totaling approximately 100 applicants per year equaling \$2,200 deposited in the Criminal Record System Fund annually.

100 applicants x \$22.00 = \$2,200 deposited in the Criminal Record System Fund annually.

The cost for a state and federal fingerprint based criminal record check is **\$33.25**, per request. The state portion of the record check fee is \$20.00 and the federal portion is \$13.25. If the submitting agency chooses to utilize the state fingerprint services vendor, then an additional \$8.50 is charged by the vendor for this service. Thus, the fee breakdown per request is as follows:

State Fee: \$20.00

Federal Fee: \$13.25

**Total (state and federal Fee) \$33.25**

Total (state, federal and vendor fee): \$41.75

The total amount retained in the Criminal Record System Fund after paying the FBI is \$22.00 per request. This equals \$20.00 for the state fee, pursuant to Section 43.530, and \$2.00 of the federal fee, pursuant to 28 CFR 20.31(e) (2) and the current fee schedule as posted in the Federal Register.

In response to a similar proposal from 2019, HB 836 (2019), **Springfield Public School** officials

assumed this proposal would cost \$5,000 for process management.

In response to a similar proposal, HB 836 (2019), **Francis Howell School District** officials assumed their district does not have any program in which an adult student, as defined in the proposed legislation, attends classes with “regular” K-12 students.

**Oversight** assumes if school districts must perform background checks on adult students not counted for purposes of average daily attendance, income to the Criminal Record System Fund (0671) would increase \$2,200 (using the 2020 estimate given by the MHP) and school districts cost would increase \$4,175 (100 x \$41.75). Oversight does not consider these amounts material; therefore, Oversight will not show a fiscal impact to the MHP or to school districts from this section of the proposal

House Amendment 3 - Background checks related to marijuana facilities

§195.817

In response to a similar proposal (SCS for SB 40), officials from the **Department of Health and Senior Services**, the **Department of Public Safety (DPS) - Missouri Highway Patrol (MHP)** and the **Office of Administration** each assumed this section of the proposal will have no fiscal impact on their respective organizations.

As noted earlier, the DPS-MHP current background check fees cost \$41.75 each, broken out at follows:

\$20.00	State fee
\$13.25	Federal Fee
<u>\$ 8.50</u>	Vendor fee
\$41.75	Total

In addition to the State fee of \$20, the state receives \$2 as a pass-through fee from federal government. Therefore, for each background check conducted, \$22 will be deposited into the Criminal Record System Fund (#0671).

**Oversight** also obtained additional information from the DHSS projecting the number of ID applications they anticipate receiving as a result of the passage of Amendment 3. DHSS said they anticipate receiving 9,000 agent ID applications each for FY2024 and FY2025 and don't expect agent applications to increase significantly past the numbers projected for FY 2025. Currently, DHSS started issuing agent licenses in April 2020 and the licenses are valid for three years, therefore, DHSS estimates renewals occurring starting in 2023. DHSS projects the same average beyond the period of the fiscal note and doesn't anticipate tapering off of applications.

Since the actual number of applications is unknown, Oversight assumes the impact to the Criminal Records System Fund could be up to \$198,000 annually (\$22 \* 9,000 applications).

§210.493 - Background checks required of certain individuals

In response to a previous version, officials from the **Attorney General's Office**, the **Department of Health and Senior Services**, the **Department of Public Safety - Missouri Highway Patrol**, the **Department of Social Services**, the **Office of Administration (OA)** and **OA - Administrative Hearing Commission**, the **Office of the State Courts Administrator**, the **Branson Police Department**, the **Kansas City Police Department**, the **Phelps County Sheriff's Department**, the **St. Joseph Police Department** and the **St. Louis County Police Department**, 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 for this section.

House Amendment 1 – Replaces “National Crime Information Center's” with “National Sex Offender Registry”

This terminology change is meant to bring the language of this section in compliance with federal guidelines. Therefore, **Oversight** assumes no fiscal impact for House Amendment 1.

House Amendment 4 – Reinstates the original statute language

Oversight notes the original proposal removed “...or the National Sex Offender Registry.” This amendment reinstates that language. Therefore, Oversight assumes no fiscal impact for House Amendment 4.

Responses regarding the proposed legislation as a whole

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, other sheriffs and police departments, nursing homes, schools and hospitals were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) 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.

In response to a similar proposal, officials from the **Office of the Secretary of State (SOS)** noted many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The 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 the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that**

**additional funding would be required to meet these costs.** However, the SOS also recognizes 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 the office can sustain with its core budget. Therefore, the SOS reserves 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 2024 (10 Mo.)	FY 2025	FY 2026
<b>CRIMINAL RECORD SYSTEM FUND (#0671)</b>			
<u>Loss</u> - from foregone fees for criminal record reviews - §43.539	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Income</u> – DPS-MHP – increase in background checks (§195.780)	<u>Up to \$165,000</u>	<u>Up to \$198,000</u>	<u>Up to \$198,000</u>
<b>ESTIMATED NET EFFECT ON THE CRIMINAL RECORD SYSTEM FUND</b>	<b><u>Up to \$165,000 or (Unknown)</u></b>	<b><u>Up to \$198,000 or (Unknown)</u></b>	<b><u>Up to \$198,000 or (Unknown)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT – Small Business

Small businesses may be impacted by this proposal if they pay the background check fees of employees. (§195.780)

Small medical marijuana businesses could be impacted by this proposal. (§210.493)

FISCAL DESCRIPTION

Currently, qualified entities receive Rap Back notifications for individuals as long as the individual has had a Missouri and national criminal record review completed within the previous six years. This bill eliminates the six-year limitation such that a qualified entity will continue to receive Rap Back notifications for individuals as long as the individuals have at some point had a Missouri and national criminal record review completed (§§43.539 and 43.540).

Under this act, school districts shall ensure that a state criminal history background check consisting of open records is conducted on any person who is 18 years old or older who is not counted in the school district's average daily attendance when such person requests enrollment in a course that will take place on school property at a time when K-12 students are present. Such background check shall be processed through the Missouri State Highway Patrol, and the person seeking admission shall pay the fees for such background checks as provided in current law. A person found to have been convicted of a crime or offense for which a certificate of license to teach would be revoked or not issued shall be prohibited from enrolling in the course (§171.097).

Under this act, the Department of Health and Senior Services shall require all employees, contractors, owners, and volunteers of marijuana facilities to submit fingerprints to the Highway Patrol for a state and federal criminal background check. The Highway Patrol shall notify the Department of any criminal history record information or lack thereof discovered on the individual. All such records shall be accessible and available to the Department (§195.817).

Finally, this act modifies provisions of current law relating to background checks of individuals in connection with licensed residential care facilities and licensed child placing agencies. Current law requires officers, managers, and support staff to undergo background checks and this act repeals that provision. This act requires the background check to include a state background check and repeals the requirement to check the National Crime Information Center's National Sex Offender Registry (§210.493).

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

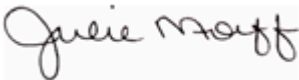
#### SOURCES OF INFORMATION

Attorney General's Office  
Department of Commerce and Insurance  
Department of Elementary and Secondary Education  
Department of Health and Senior Services  
Department of Labor and Industrial Relations  
Department of Mental Health  
Department of Public Safety  
    Office of the Director  
    Missouri Highway Patrol  
    Missouri Gaming Commission,  
    Missouri Veterans Commission

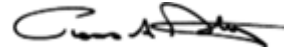


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State Emergency Management Agency  
Department of Revenue  
Department of Social Services  
Missouri Department of Agriculture  
Missouri Department of Transportation  
Missouri Lottery Commission  
Missouri National Guard  
Office of Administration  
Administrative Hearing Commission  
Joint Committee on Administrative Rules  
Office of the Secretary of State  
Office of State Auditor  
Office of the State Courts Administrator  
Kansas City Police Department  
Phelps County Sheriff's Department  
Branson Police Department  
St. Joseph Police Department  
St. Louis County Police Department  
Phelps County Sheriff's Department



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