

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0680H.011  
 Bill No.: HB 355  
 Subject: Law Enforcement Officers and Agencies; Children and Minors; Children's  
 Division; Department of Social Services; Licenses - Driver's; Department of  
 Revenue  
 Type: Original  
 Date: February 24, 2023

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	Could exceed (\$55,610)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Could exceed (\$55,610)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

\***Oversight** assumes the total fiscal impact could exceed \$250,000 due to the potential for civil action and the addition of a civil penalty of \$50,000 per occurrence for any violations of §210.762. Oversight has reflected this potential to General Revenue, Other State Funds and Federal Funds.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
State Legal Expense Fund (0692)*	\$0	\$0	\$0
Colleges and Universities	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

\*Transfer-In and expenses net to zero. Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Local Government</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §§43.401, 210.762, and 210.795 – Missing child

Officials from the **Department of Social Services (DSS)** state DSS is unable to determine the fiscal impact of the proposed language due to ambiguity in the bill language and due to costs that could be incurred by DSS per the proposed bill, which would be outside of the control of DSS.

For instance, 210.762.1(2) includes a penalty provision where any agency or placement provider, which would include foster parents, with legal custody of a child who goes missing that fails to comply with the provisions under this subdivision shall be liable to the injured party, which includes the missing child, parent, foster parent, or legal guardian of the missing child, and the state of Missouri, in an action at law and subject to a civil penalty of fifty thousand dollars per occurrence. The bill does not define how much time an agency or placement provider is given to report a missing child. The question of whether the agency reported as soon as it was determined that the child is missing would be a question of fact to be considered by the trier of fact. If reasonableness of the timeliness of reporting is not codified, this could lead to increased legal cases being filed.

DSS states it is also unclear who would be the recipient of the civil penalty monetary award contemplated by 210.762.1(2). If private individuals would be the recipients of these civil penalties, this could lead to an increase in the amount of litigation and could have an unintended consequence of incentivizing children to run away so that the child or the child's parents could initiate civil actions against the agency or placement provider to try to claim the \$50,000 statutory damages.

Even if the statutory damages would not be payable to private individuals, 210.762.1(2) provides for the filing of a civil action in addition to the civil penalty that is imposed. The proposed bill consistently refers to an "agency or placement provider" as being the potentially liable parties for failure to abide by the terms of the law as proposed. If the terms "agency" or "placement provider" are meant to encompass the Children's Division as being a liable party, this could waive sovereign immunity. The proposed language could also subject foster parents to liability, as foster parents are considered placement providers.

Additionally, since the state of Missouri is recited as being an injured party in 210.762.1(2), it could create a conflict in defense of such actions. The DSS is defended by the Attorney General. The Attorney General would also have authority to bring actions under the proposed bill. In such situations, the state would likely need to employ private conflicts counsel.

The cost in employing such conflicts counsel and other potential costs as outlined above are unable to be quantified. Therefore, DSS estimates its fiscal impact as \$0 to (Unknown).

**Oversight** notes a report from U.S. Department of Health and Human Services (DHHS), Office of Inspector General (OIG): [Case Study: Missouri's Efforts To Protect Children Missing From Foster Care](#)

*During the times in which the children were missing from care, Missouri frequently failed to comply with requirements that could have aided in locating them. Nearly half of the case files contained no evidence of Missouri reporting the children as missing, as required, to either local law enforcement or the National Center for Missing and Exploited Children. Additionally, for many missing children, there was no evidence that Missouri made the required notifications and contacts to seek information on the children's potential whereabouts.*

*For 61 percent of children (36 out of 59), there was no evidence that the case managers notified the adults in the child's life when the child went missing from care, as required by Missouri policy. The adults include the juvenile officer, court representative, and parent(s) of the child.*

**Oversight** notes the provisions of 210.762.1(2) state any agency or placement provider with legal custody of a child who goes missing that fails to comply with the provisions under this subdivision, shall be liable to the injured party, which includes the missing child, parent, foster parent, or legal guardian of the missing child, and the state of Missouri, in an action at law and subject to a civil penalty of fifty thousand dollars per occurrence. Therefore, Oversight will reflect a \$0 (compliance of agency or placement provider) to (Unknown) (non-compliance of agency or placement provider) fiscal impact for fiscal note purposes.

Officials from the **Office of Administration (OA)** assume the term "agency" in sections 43.401 and 210.762 of this bill is intended to refer to a "child-placing agency" or other private agency authorized to receive custody of children, not to the Department of Social Services or another agency of the state of Missouri. If the term agency were interpreted as referring to a state agency, an unknown fiscal impact to the State Legal Expense Fund could result. The Office of Administration requests that language be added to the bill defining the term agency or specifying that the state of Missouri and its employees are not subject to a civil penalty.

**Oversight** will reflect OA's potential unknown impact for fiscal note purposes to the state Legal Expense Fund. Oversight notes the Legal Expense Fund is funded by the General Revenue Fund as well as other state funds. Oversight notes this possible litigation exposure as described by OA could also apply to colleges and universities, federal funds, as well as local political subdivisions.

Officials from the **Office of Administration - Budget and Planning (B&P)** state section 210.762 provides that an agency or placement provider with legal custody of a child shall ensure a missing child complaint is filed once the organization determines that a child in the organization's custody is missing and requires family support team meetings to be held. Any agency or placement provider who fails to comply with the provisions under this subdivision shall be liable to the injured party and be subject to a civil penalty of fifty thousand dollars per occurrence. It is unknown how many civil penalties will be assessed under this subdivision. To

the extent that the state of Missouri may be an injured party under this subdivision, this proposal could increase total state revenues by an unknown amount beginning August 28, 2023.

**Oversight** notes that violations of section 210.762 could result a civil penalty of \$50,000 per occurrence. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fine varies widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

§§136.055, 302.178, and 302.181 – Driver’s licenses to certain youths

**B&P** states sections 136.055, 302.178, and 302.181 require the Department of Revenue to provide drivers licenses to certain youths at no cost. B&P defers to DOR for specific revenue impacts.

Officials from the **Department of Revenue (DOR)** state section 302.181.6 adds language to this subsection that no nondriver license transaction fees shall be collected from a homeless child or youth, as defined in subsection 1 of section 167.020, or an unaccompanied youth, as defined in U.S.C Section 11434a (6) for a first nondriver license card issued under this subsection. The person’s status is verified by a letter from a director or designee of a governmental or nonprofit agency that receives public or private funding to provide services to a homeless person, a local education agency liaison for homeless children and youth designated under 42 U.S.C. Section 11432(g) (1) (J) (ii), a licensed attorney representing the minor in any legal matter, or a school social worker or counselor.

Pursuant to this language, fees for subsequent, new, renewal or duplicate nondriver license transactions would be issued at full-required fees.

Administrative Impact

To implement the proposed change, the Department would be required to:

- Complete business requirements and design documents to modify the Missouri Electronic Driver License (MEDL) issuance system, MEDL central applications and supporting systems to remove the fee for a nondriver for homeless child, youth, or an intermediate for emancipated youths.
- Complete programming and user acceptance testing of the Missouri Electronic Driver License (MEDL) issuance system;
- OA-ITSD Test the file generation and secure transfer process to ensure all required data elements and signature are sent as required;
- Obtain format and procedure approvals from Secretary of State and others as applicable;
- Update policies, procedures, and the Uniform License Issuance Manual (ULIM);
- Update forms, manuals, and the Department website;
- Complete training as required.

FY 2023 – Driver License Bureau

Research/Data Assistant 360hrs. @ \$17.20 per hr. =\$ 6,192

Research/Data Analyst 400hrs. @ \$25.63 per hr. =\$10,252

Administrative Manager 80 hrs. @ \$27.82 per hr. =\$ 2,226

Total \$18,670

FY 2023 – Personnel Services Bureau

Associate Research/Data Analyst 20 hrs. @ \$20.54 per hr. =\$411

Associate Research/Data Analyst 10 hrs. @ \$20.54 per hr. =\$205

Total \$616

Total Costs \$19,286

Revenue Impact

During FY 22 there were a total of 113,014 new nondriver licenses issued. DOR does not have statistics to determine of this count how many potential annual applicants may be eligible for a fee waiver under the proposed provisions; therefore, the total impact to State and Local Revenue is unknown.

For each fee waiver eligible nondriver license issued pursuant to this proposed language in §302.181, there would be a loss to General Revenue of \$6.

During FY 22, there were a total of 52,348 new intermediate licenses issued. It is unknown how many may potential applicants may be eligible for a fee waiver under the proposed provisions; therefore, the total impact to State and Local Revenue is unknown.

For each fee waiver eligible Intermediate Driver License issued pursuant to this proposed language in §302.178, there would be a loss of fees distributed to the Hwy Fund and Local Funds for cities and counties as follows

Hwy Fund Loss (75%) = \$3.75

Cities Fund Loss (15%) = \$0.75

Counties Fund Loss (10%) = \$0.50

For each issued document, the Department would have to pay contracted fees to the card vendor for printing and postage costs equaling \$2.4724 per card.

There would also be a loss to General Revenue for office processing fees which would have been collected for nondriver or intermediate license transactions issued in State license offices eligible for waiver of fees pursuant to the proposed language in §136.055. An estimated volume of eligible applicants applying in State branch office is unknown.

Office Processing Fee each New Nondriver License: \$12.00  
Office Processing Fee for each Intermediate License \$ 6.00

The fiscal impact estimated above is based on changes in the current MEDL system environment. The implementation of this legislation will be coordinated with the integration of the Department's Motor Vehicle and Driver Licensing software system approved and passed by the general assembly in 2020 (Senate Bill 176). To avoid duplicative technology development and associated costs to the state, it is recommended a delayed effective date be added to this bill to correlate with the installation of the new system.

Officials from the **Office of Administration (OA), Information Technology Services Division (ITSD)/DOR** state updates to the MEDL would be required.

OA, ITSD/DOR assumes every new IT project/system will be bid out because all ITSD resources are at full capacity. IT contract rates for MEDL are estimated at \$95/hour. It is assumed MEDL modifications will require 442.8 hours for a cost of \$42,066.

OA, ITSD/DOR assumes every new IT project/system will be bid out because all ITSD resources are at full capacity. IT contract rates for MODL are estimated at \$95/hour. It is assumed MODL modifications will require 71.28 hours for a cost of \$6,772.

Therefore, the total MEDL and MODL upgrades will cost \$55,610 in FY24 exclusively.

**Oversight** does not have any information to the contrary. Oversight assumes DOR can absorb the administrative impact of this proposal (\$19,286) within current staffing and funding levels. Oversight will reflect the one-time IT costs against General Revenue Funds for FY24.

#### Bill as a Whole

Officials from the **Department of Corrections (DOC)** state this proposal modifies and establishes provisions relating to the protection of children. It intends to raise the age of a child from less than 17 to less than 18 to those eligible for child protections under current legislation, and adds relevant penalties for people violating those protections.

Given there is no information available on the number of persons to which child protections would need to be applied or the number of victims that would fall under the penalties for people violating those protections, the DOC is unable to estimate the impact of this proposal on department operations.

**Oversight** does not have any information contrary to that provided by DOC. Therefore, Oversight will range the fiscal impact from \$0 to DOC's (unknown) impact for fiscal note purposes.

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

Officials from the **Attorney General’s Office**, the **Office of Administration - Administrative Hearing Commission**, 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 Public Safety – (Alcohol and Tobacco Control and Missouri Highway Patrol)**, the **Missouri Office of Prosecution Services**, the **Office of the State Public Defender**, the **Newton County Health Department**, the **St. Louis County Health Department**, the **Branson Police Department**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, and the **Phelps County Sheriff’s Department** assume 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.

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, other city and county health departments, local law enforcement, 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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>GENERAL REVENUE</b>			
<u>Cost – DSS (\$210.762) Potential civil penalty for non-compliance p. 3-4</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost – DOC - Potential increase in incarceration costs from raising the age from 17 to 18 p. 7</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost – OA, ITSD/DOR (\$302.181) p. 5-7</u>			
MEDL	(\$42,066)	\$0	\$0
MODL	(\$6,772)	\$0	\$0
<u>Total cost – OA, ITSD/DOR</u>	<u>(\$55,610)</u>	<u>\$0</u>	<u>\$0</u>



<u>FISCAL IMPACT – State Government</u> (continued)	FY 2024 (10 Mo.)	FY 2025	FY 2026
<u>Transfer Out – to the State Legal Expense Fund – OA (§210.762) Potential increase in litigation p. 4</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE</b>	<b><u>Could exceed (\$55,610)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>
<b>OTHER STATE FUNDS</b>			
<u>Cost - (§210.762) Potential increase in litigation to various state agencies p. 4</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>
<b>STATE LEGAL EXPENSE FUND (0692)</b>			
<u>Transfer In – from General Revenue and Other State and Federal Funds p. 4</u>	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost – OA (§210.762) Potential increase in litigation p. 4</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON THE STATE LEGAL EXPENSE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>COLLEGES AND UNIVERSITIES</b>			
<u>Cost - (§210.762) Potential increase in litigation p. 4</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES</b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>

<u>FISCAL IMPACT – State Government</u> (continued)	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>FEDERAL FUNDS</b>			
Cost - (§210.762) Potential increase in litigation to various state agencies p. 4	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
Revenue – School districts (§210.762) Potential fine revenue p. 5	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
Cost - (§210.762) Potential increase in litigation p. 4	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the age a person is considered a child, as it pertains to multiple provisions in the bill, to anyone under the age of 18 instead of 17. A missing child can also include a person still in foster care regardless of their age.

The bill requires law enforcement agencies to take a missing child report from any member of the family support team, as defined in this bill, and provide a copy of the report to the agency or placement provider with legal custody of the missing child. The agency or placement provider shall maintain all copies of missing child reports for any child under its legal custody. Within 72 hours of a missing child complaint being filed for a child placed in an authorized agency or

foster care or within 72 hours of an authorized agency or foster care being notified that a child under its custody is missing, whichever event first occurs, the family support team, as defined in this bill, shall hold a meeting to discuss the whereabouts of the missing child and to discuss the initial decision regarding the custody and placement of the missing child once the child is found. There is also a penalty provision for any agency or placement provider with legal custody of a child who goes missing but fails to comply with these provisions. Failure to comply will cause the agency or placement provider to be liable to any injured party, which includes the missing child, parent, foster parent, or legal guardian of the missing child, and the state of Missouri, and is subject to a civil penalty of \$50,000 (Sections 210.762, 43.401, and 210.762, RSMo).

This bill also waives driver's license fees and non-driver's license fees for verified homeless youths or unaccompanied youths. It also specifies who may verify the person's status as a homeless youth (Sections 136.055, 302.178, and 302.181).

Currently, the Department of Health and Senior Services is required to maintain a record of substantiated, signed parental complaints against licensed child care facilities and make those available to the public. This bill gives the responsibility to the Department of Elementary and Secondary Education instead of DHSS and specifies that the complaints being made available to the public should not divulge any information that can identify the reporters (Section 210.203).

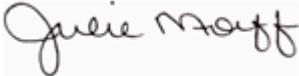
This bill also requires case workers to notify a juvenile officer if a child under their supervision goes missing or is suspected to be on the run. Once notified, the juvenile officer shall file with the court a notice in the child's case file that states the child is missing and include any other relevant information, which shall include the missing child report. If the missing child is found, the juvenile officer shall file with the court a notice in the child's case file that the child has been found and include any other relevant information (Section 210.795).

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  
Office of Administration - Administrative Hearing Commission  
Office of Administration - Budget and Planning  
Department of Commerce and Insurance  
Department of Corrections  
Department of Elementary and Secondary Education  
Department of Health and Senior Services  
Department of Mental Health  
Department of Revenue  
Department of Public Safety  
Department of Social Services  
Missouri Office of Prosecution Services

Office of Administration  
Office of the State Courts Administrator  
Office of the State Public Defender  
Newton County Health Department  
St. Louis County Health Department  
Branson Police Department  
Kansas City Police Department  
St. Joseph Police Department  
St. Louis County Police Department  
Phelps County Sheriff's Department



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