

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1354H.02P
Bill No.: Perfected HCS for HB Nos. 557 & 560
Subject: Children and Minors; Social Services, Department of
Type: Original
Date: March 24, 2021

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	Could exceed (\$1,665,307)	Could exceed (\$1,683,262)	Could exceed (\$1,699,836)
Total Estimated Net Effect on General Revenue	Could exceed (\$1,665,307)	Could exceed (\$1,683,262)	Could exceed (\$1,699,836)

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

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	Could exceed 20 FTE	Could exceed 20 FTE	Could exceed 20 FTE
Total Estimated Net Effect on FTE	Could exceed 20 FTE	Could exceed 20 FTE	Could exceed 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, Missouri Highway Patrol** anticipates no fiscal impact as the result of this proposal.

Oversight notes this proposal includes new statutes with new requirements for certain individuals to be fingerprinted as part of the background checks prescribed in this proposal. Oversight also notes 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 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)** stated 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 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 §210.493 that requires background screenings for all staff of licensed residential care facilities and licensed child placing agencies. The amendment 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.

DSS states 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, 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.

§210.1280 is added and amended to state 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 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 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.

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 two (2) FTE litigation attorneys 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; to defend additional Children's Division findings of child abuse or neglect in the circuit courts; and to defend 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 to the Act's notification requirements under §210.493

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 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.

In response to a previous version (HCS HB 557), officials from the **Office of State Public Defender (SPD)** stated, 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 **Florissant Valley Fire Protection District** state, while there may be some impact, they do not believe that this proposal has a significant financial impact.

Oversight assumes the costs incurred by the Florissant Valley Fire Protection District related to this proposal can be absorbed within current resource levels.

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 and the penalties are clear in the case of non-compliance.

Oversight does not have any information to the contrary. Oversight notes that no specific fiscal impacts were indicated in this agency's response. 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 **Kansas City Health Department**, the **Newton County Health Department**, the **St. Joseph Police 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 (HCS HB 557), officials from the **Department of Public Safety, Division of Fire Safety**, the **Office of Administration** and the **Kansas City Police 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

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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>	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 – AGO</u>	<u>Could exceed</u> <u>(\$93,221)</u>	<u>Could exceed</u> <u>(\$94,033)</u>	<u>Could exceed</u> <u>(\$94,853)</u>
FTE Change – AGO	Could exceed 1 FTE	Could exceed 1 FTE	Could exceed 1 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Could exceed</u> <u>(\$1,665,307)</u>	<u>Could exceed</u> <u>(\$1,683,262)</u>	<u>Could exceed</u> <u>(\$1,699,836)</u>
Estimated net FTE Change on the General Revenue Fund	Could exceed 20 FTE	Could exceed 20 FTE	Could exceed 20 FTE
CRIMINAL RECORDS SYSTEM FUND (0671)			
<u>Income – MHP (§210.1263) Fees Collected From Background Checks p. 3</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON THE CRIMINAL RECORDS SYSTEM FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<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 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.

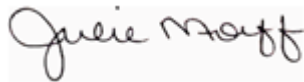
The bill further details that failure to comply with these provisions may result in fines, misdemeanor charges for failure to conduct background checks, and potential removal of children (§§210.143, 210.1250, 210.1253, 210.1256, 210.1259, 210.1262, 210.1263, 210.1264, 210.1265, 210.1268, 210.1271, 210.1274, 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
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
Florissant Valley Fire Protection District
Fruitland Area Fire Protection District
Kansas City Health Department
Kansas City Police Department
Newton County Health Department
St. Joseph Police Department
St. Louis County Police Department



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