

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0514-01
Bill No.: SB 41
Subject: Elementary and Secondary Education; Teachers; Department of Elementary and Secondary Education; Children and Minors; Highway Patrol; Department of Social Services
Type: Original
Date: March 4, 2009

Bill Summary: The proposal creates the Amy Hestir Student Protection Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(\$7,338,468)	(\$4,556,088)	(\$4,692,737)
Total Estimated Net Effect on General Revenue Fund	(\$7,338,468)	(\$4,556,088)	(\$4,692,737)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Criminal Records	\$1,080,000	\$108,000	\$108,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$1,080,000	\$108,000	\$108,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 23 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Federal	(\$2,331,094)	(\$1,505,484)	(\$1,550,648)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$2,331,094)	(\$1,505,484)	(\$1,550,648)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	71.3	71.3	71.3
Federal	26.2	26.2	26.2
Total Estimated Net Effect on FTE	97.5	97.5	97.5

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration, Department of Mental Health, Department of Corrections, Department of Labor and Industrial Relations, Department of Public Safety – Director’s Office, Office of the State Public Defender, Boone County Sheriff’s Department,** and the **Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposal would have no measurable fiscal impact the Office of Prosecution Services or county prosecutors.

Officials from the **Office of the Secretary of State (SOS)** assume 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 proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **Office of the Attorney General (AGO)** identify 3 provisions in this proposal that may result in additional costs to AGO. Section 162.068.2 requires that, if a school employee provides certain information regarding personnel information of a fellow employee (presumably to a potential employer), the AGO would represent the employee providing the information in the event that employee is sued for providing it. Because AGO cannot project the number of cases that could be generated from this provision, AGO assumes that costs would be unknown but under \$100,000 per year.

ASSUMPTION (continued)

Section 168.071 provides some additional crimes which, if committed by a licensed teacher, would subject the teacher to automatic license revocation. Because the AGO handles these revocation cases before DESE, AGO assumes that this amended section could generate additional cases in the event a licensee commits one of the newly enumerated crimes. AGO assumes that any costs associated with this provision could be absorbed within existing resources.

Finally, Section 556.037 removes the statute of limitations for a criminal prosecutions brought when a person under age 18 is a victim of a sex crime. AGO assumes that, to the extent this change results in more prosecutions and convictions, AGO will have an increase in the number of appeals filed. AGO assumes that any increase in appeals will be modest and can be absorbed within existing resources.

Oversight assumes the AGO could absorb any increased costs generated as a result of the provisions in Section 162.068.2. Oversight assumes any significant increase in the workload of the AGO would be reflected in future budget requests.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume, if a student, who has filed a complaint of sexual abuse against a teacher, feels that they can no longer attend school where that teacher is teaching, then the resident school district would have to contract with another school or school district for that student to attend. DESE may direct the student's ADA be counted in the receiving district resulting in the state money following the student. There may be some increased cost to the resident district even though DESE could have the money follow the student. This should not increase the cost to the state. The student would also be viewed as a resident student for activity purposes.

DESE assumes there might be some increased time by school employees to meet the provisions of this bill.

DESE provided the following information from Office of Administration – Information Technology Services Division (OA – ITSD).

OA – ITSD estimates that in order to accomplish the requirements of this proposal, programming and storage would need to be enhanced within DESE. Automation will be required to share data between DESE, Department of Health and Senior Services, Department of Public Safety, Department of Corrections, and Department of Mental Health. Additional work by the licensure staff would be required as well.

ASSUMPTION (continued)

Currently the certificated and non-certificated school employees are not always kept in the same data storage area. In order to make this process the most efficient, that would need to change. Because of outdated and unsupported software, a new system would need to be developed to accomplish the goal of verifying all employees are on the Family Care Safety Registry and Access Line (FCSR) system. That system is estimated at \$1.5 million. This system also would accomplish the goal of verifying the appropriateness of Social Security Numbers and gather information from national clearing houses for infractions in other states.

The machines on which the current data are stored are 7 to 8 years old, which is twice the expected life cycle. A new machine would cost \$25,000 and would need upgraded storage capability and licenses at an additional cost of approximately \$5,000. A three to four year replacement cycle is necessary to ensure the integrity of the data on the machine. The cost of this could be averaged out each year to approximately \$9,000 (this includes the replacement and licensing costs).

Due to increased demands on OA – ITSD staff at DESE, it is requested that an additional 2 FTE Computer Information Technician (each at \$40,308 per year, plus fringe benefits) be added to ensure support and future changes to this system receive the attention deserved.

The initial cost of verifying that all school employees are registered in the FCSR will be approximately \$2,205,000 (\$9 per person for 120,000 certified teachers plus another 125,000 non-certified school employees). An annual cost of \$72,000 for an additional 6,000 to 8,000 new hires is anticipated. In order to accomplish these requirements, DESE will require 1.5 FTE administrative assistant (each at \$31,560 per year, plus fringe benefits).

DESE estimates the total cost of the proposal to be approximately \$3.8 million in FY 10, and approximately \$290,000 in subsequent years.

Oversight assumes, pursuant to Section 168.133.3, the applicant shall pay the fee for the state and federal criminal history record checks pursuant to Section 43.530, and Sections 210.900 to 210.936. Therefore, Oversight has not included the cost for the criminal history record checks in the fiscal note. Oversight has included the revenues to the MSHP, which will come from the applicant.

ASSUMPTION (continued)

Oversight assumes Section 168.133.4 of the proposal requires DESE to facilitate an annual check of employed persons holding current active certificates against criminal history records in the central repository under Section 43.530, the sexual offender registry under Sections 589.400 to 589.475, and child abuse central registry under Sections 210.900 to 210.936. Oversight assumes these required annual checks can be conducted in the manner they are currently being conducted. Therefore, Oversight assumes no information systems upgrades would be required by DESE for the background checks.

Oversight assumes OA – ITSD staff at DESE could absorb any increased duties that would be required by the proposal. Oversight assumes any significant increase in the workload of the OA – ITSD staff at DESE would be reflected in future budget requests.

Oversight assumes DESE would verify school employee registration in the FCSR. Oversight assumes DESE would require 1.5 FTE Administrative Assistants. Oversight has, for fiscal note purposes only, changed the starting salary for the Administrative Assistants to correspond to the second step above minimum for comparable positions in the state’s merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials from the **Department of Health and Senior Services (DHSS)** assume the Family Care Safety Registry (FCSR) will be required to process worker registrations submitted by public school staff that have contact with students. This will require approximately 203,436 workers to initially be registered as well as 12,000 staff on an annual basis who are newly hired or who change positions in the public school system. In addition, the Department of Elementary and Secondary (DESE) indicated that it will utilize the FCSR in order to perform the annual screening of certified staff, with local schools responsible for the submission of the annual screening requests for non-certified staff. The electronic method for submission of both registrations and background screenings cannot be implemented for all submissions and the FCSR staff will experience a much higher manual processing workload.

DHSS assumes the provisions in Section 168.133 will impact Family Care Safety Registry Registrations (a registration is an individual’s initial entry into the Family Care Safety Registry which establishes his/her record and stores the relevant data in the system).

ASSUMPTION (continued)

Based on an estimate provided by the Missouri Public School Retirement System/Public Education Employees Retirement System (PSRS/PEERS), there are 78,436 certificated and temporary certificated staff in their active membership. DESE estimates there are 125,000 non-certificated public school staff for a total of 203,436 certificated and non-certificated staff to be registered with the FCSR. Based on information provided by DESE, 4,000 new teachers will graduate in-state annually and an additional 4,000 teachers will move or transfer to Missouri schools annually. Based on information from PSRS/PEERS, DHSS assumes that the number of non-certificated staff will increase 3.2 percent annually ($125,000 \times 3.2 \text{ percent} = 4,000$). This will require an estimated 8,000 certificated staff and 4,000 non-certificated staff to be registered with FCSR on an ongoing basis.

The FCSR anticipates there will be an initial effort to register all current certificated and non-certificated employees (203,436) in order to provide background screenings on an ongoing/annual basis. Historically, 30 percent of registrations are performed online and 70 percent are processed manually. Assuming that holds constant, 61,031 individuals will register online resulting in minimal work by FCSR for these registrations. The remaining 142,405 individuals will require manual processing that is more labor intensive. In order to meet the demand for processing registrations, DHSS plans to hire temporary FTEs to process the initial registrations. These staff will not be needed on an ongoing basis since the number of new registrations is estimated to decrease to 12,000 annually after the first year. DHSS estimates each temporary FTE will work no more than 1,040 hours and process 5,000 registrations each resulting in the need to hire 28 temporary FTE ($142,405/5,000 = 28$). Based on \$16.07 per hour in wages for these staff, (HPR II salary) \$467,958 ($28 \times \$16.07 \times 1,040$) in one-time costs will be needed to pay wages for these FTEs. These staff will be housed in existing space, working after hour shifts and using existing equipment and furniture. DHSS will also need one HPR II on an ongoing basis to process the annual 12,000 new registrations related to turnover and new staff entering the public school system.

DHSS assumes the following impact for the Family Care Safety Registry Background Screenings (a background screening is an inquiry made of the Family Care Safety Registry accessing existing records and retrieving data concerning an individual).

ASSUMPTION (continued)

DESE is required in Section 168.133, RSMo to facilitate the annual processing of background screenings to include criminal history, Sex Offender Registry, and child abuse/neglect searches. Previously the Missouri State Highway Patrol (MSHP) processed criminal history and sex offender searches at no cost to DESE. However, MSHP has changed their policy and if DESE continues to utilize the MSHP in this manner, the cost to DESE will be \$930,934 annually ($\$9.00 \times 203,436$). As a result of this legislation, DESE informed DHSS they plan to conduct these annual background screenings using the FCSR as it also incorporates the required child abuse/neglect search. DHSS plans to modify the existing computer software to utilize batch processing in conjunction with the existing web application for the background screening process to expedite processing and minimize the need for additional ongoing staff. DHSS estimates that DESE will utilize the electronic batch submission process to obtain updated screenings on the certified staff. Historically, 10 percent of the screenings submitted through the electronic batch processing ($78,436 \times .10 = 7,844$) require review by FCSR staff to determine an accurate match. Non-certified staff of 125,000 will not be batch submitted and will therefore require manual processing. This will require a total of 132,844 ($7,844 + 125,000$) screenings requiring manual processing. DHSS estimates that one HPR II FTE and 0.5 OSA FTE are required to process 12,000 screening manually. Therefore 11 HPR II FTEs and six OSA FTEs ($132,844 / 12,000 = 11.07$ rounded down to 11) will be required to process background screenings annually.

In addition, each individual screened and their employer receives a letter notifying them of their registration, as well as their background screening results. DHSS estimates the mailing of each notification will cost \$0.325 and therefore a request is included for the postage costs associated with the mailing of 861,744 result letters in the first fiscal year of implementation [$203,436$ current staff + $12,000$ new employees = $215,436 \times 4$ letters (a registration letter to the employer and the registrant and a screening letter to the employer and registrant)] and 454,872 in subsequent years [$(203,436$ current staff $\times 2$ screening letters) + ($12,000$ new employees $\times 2$ registration letters $\times 2$ screening letters)]. A three percent inflationary factor is applied to Fiscal Year 2011 and Fiscal Year 2012 to cover anticipated increase in postage costs.

DHSS provided the following Office of Administration – Information Technology Services Division (OA – ITSD) costs.

ASSUMPTION (continued)

Support from OA – ITSD will be needed to modify the existing database used by DHSS, FCSR. The proposed language states the Missouri State Highway Patrol, DHSS, the Department of Social Services, and the Department of Elementary and Secondary Education (DESE) shall develop procedures that permit an annual check of employed persons holding current active certificates under Section 168.021 against criminal history records in the central repository under Section 43.530, RSMo, the sexual offender registry, and child abuse central registry under Sections 210.900 to 210.936, RSMo. DESE shall facilitate the development of procedures for school districts to submit personnel information annually for persons employed by the school districts who do not hold a current valid certificate who are required by subsection 1 of this section to undergo a criminal background check, sexual offender registry check, and child abuse central registry check.

An interface with a web-based system currently in use by the Missouri Highway Patrol will need to be modified. The FCSR plans to verify registration of teaching staff through a batch process. OA – ITSD resources would be required to initially setup the batch process. On-going funds will be needed to complete the task annually once the batch process has been established.

The following ITSD costs will apply:

COST CATEGORY	FIRST YEAR (10 Months)	ONGOING
Consultant cost for analysis, design development, testing, and implementation of modification needed to collect and store data.	\$71,760	\$3,000
25% FTE - Computer Information Technology Specialist II – to provide project management, development support and administration/maintenance of application.	\$11,920	\$0
Additional State Data Center charges due to increased volume.	\$12,000	\$12,000
TOTAL	\$95,680	\$15,000

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for the Health Program Rep II to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight assumes the FTE would be housed in existing DHSS facilities. Therefore, the fiscal note includes no rent or janitor/trash/utilities expenses.

Oversight assumes Section 168.133.4 of the proposal requires DESE to facilitate an annual check of employed persons holding current active certificates against criminal history records in the central repository under Section 43.530, the sexual offender registry under Sections 589.400 to 589.475, and child abuse central registry under Sections 210.900 to 210.936. Oversight assumes these required annual checks can be conducted in the manner they are currently being conducted. Therefore, Oversight assumes no ongoing background screenings will be conducted through the FCSR and Oversight has included no cost for the ongoing background screenings.

Oversight assumes DHSS would be mailing notification to regarding 215,436 new registrants in the first year and 12,000 new registrants in subsequent years.

Oversight assumes OA – ITSD would absorb the information technology-related duties within existing resources. Therefore, Oversight has included no cost for the 0.25 FTE Computer Information Technology Specialist II. Oversight has adjusted the State Data Center charges for FYs 2011 and 2012 to reflect approximately 12,000 new registrations per year.

Officials from the **Department of Social Services – Children's Division (Division)** assume Section 210.145 requires the Children's Division to provide information about the Office of the Child Advocate (OCA) and services it may provide to any individual who is not satisfied with the results of an investigation.

Currently law dictates OCA will review an unsubstantiated case at the request of a reporter. The Division now informs reporters, perpetrators and parent/caretakers through the CS-21 Disposition notification letter, CS-21B Reporter Disposition notification letter and the CS-24 Description of the Investigation of the reporter's right to request OCA review of unsubstantiated cases. It is also CD policy to inform the reporter on initial contact of the option to request a review of unsubstantiated reports by OCA.

ASSUMPTION (continued)

The language “any individual who is not satisfied with the results of an investigation” is broad. If this means the Division will provide information about OCA to any individual who contacts the Division and indicates they are dissatisfied with a result of an investigation, regardless of conclusion, it will require changes in current policy and procedures to ensure proper notification per this provision.

Officials assume Section 210.152 allows the Children’s Division to reopen a case for review at the request of any party to the investigation if information is obtained that the investigation was not properly conducted under the provisions of Chapter 210, RSMo, or if new information becomes available.

Currently, if the Children’s Division reviews a concluded case and the result is the need for further investigation then a new investigation must be generated. The Children’s Division can not re-open investigations or change the findings because under Missouri statutes and case law and regulation, once a decision is final the Missouri Children’s Division (CD) cannot reopen an investigation.

In addition to current law, which holds that CD cannot reopen a final finding to investigate a case again, there are constitutional issues to consider. The US Constitution and Missouri Constitution guarantee individuals due process rights when accused of wrongdoing. Due process requires that individuals “get notice” of what they are being accused of and an opportunity to respond to or dispute those charges. The other important principal is finality. This means that once a case has been brought up and addressed the accused shouldn't have to address it (or defend it) again as the conclusion is final. So when there is new evidence or information which has been brought to the attention of authorities, due process requires that they “get notice” and an opportunity to respond to and dispute the “new” charges.

As long as the Division initiates a new investigation when a review determines further investigation is required rather than reopening a concluded investigation or changing a finding, revisions to policy and procedure will not create a significant programmatic impact.

Current DOS discipline policy may apply when an individual employee fails to follow policy or state law. Depending upon the magnitude and scope of the policy violation, discipline may range from some type of sanction to termination of employment. Additionally, Missouri statutes provide for civil remedies to address situations where a person believes that the Children’s Division has failed to follow the law.

ASSUMPTION (continued)

In summary if the intent of this bill is to allow the Division to review cases, at the request of any party to the investigation if information is obtained that the investigation was not properly conducted under the provisions of Chapter 210, RSMo, or if new information becomes available; and, if by review it is determined that further investigation is required, a new investigation will be generated, this bill would necessitate minimal changes in policy and procedure and would not require changes to the FACES system.

If the intention of this bill is to reopen concluded investigations in order to add to the investigation or to change the findings, there are conflicts with Missouri statute, case law and U.S. and Missouri constitutional issues as cited above. Current law allows a request for appeal on any substantiated by a preponderance of the evidence conclusion when the named perpetrator disagrees with the agency's findings. This bill expands this by allowing any party to the investigation to request the case be reopened for review. These changes would create significant fiscal and programmatic impact.

The Children's Division provided the following proposed statutory language to the Interim House Committee on Student and Child Protection in a November 7, 2008 correspondence, which would allow an unsubstantiated case to be re-investigated with any new evidence, alleged victim or alleged perpetrator information.

210.145. If after the completion of an investigation of a report of abuse or neglect, closed as an unsubstantiated report, the local office is provided or discovers new evidence related to the report of abuse or neglect, a report may be made to the hotline outlining the new information which has been discovered in relation to the closed report. A new investigation may be opened to take into consideration this evidence.

DOS assumes the following fiscal impact in reference to section 210.152:

The Children's Division is determining fiscal impact on staffing needs as well as computer system programming needs to the FACES system. Assumptions are based on a two year average of investigation conclusions for Fiscal Years 2007 and 2008.

STAFFING IMPACT:

ONGOING/FUTURE IMPACT:

The average number of investigations concluded per year is 22,687.

ASSUMPTION (continued)

The Division assumes 20% of the investigations concluded in the original year of investigation may be requested to be reopened.

The Division also anticipates an additional 5% of those investigations, concluded in the original year of investigation, may be requested to be reopened in each subsequent year for three years.

This results in an anticipated total of 35% of concluded investigations requested to be reopened in any given year on an ongoing basis beginning with fiscal year 2010.

ADDITIONAL FIRST YEAR/PRIOR YEAR IMPACT:

The Division anticipates a higher number of requests to reopen investigations in the first year of implementation. Because there is no time limit on when a request may be made to reopen an investigation, the Division is assuming requests to reopen cases may be made in any of the past 14 years, prior to fiscal year 2007.

In the first year of implementation of this bill, the Division anticipates 10% of the 3 previous years' concluded investigations will be requested to be reopened (fiscal years 2007, 2008, and 2009).

The Division also expects 2% of the total investigations concluded in the 14 years prior to Fiscal Year 2007 will be requested to be reopened over a 3 year period.

ASSUMPTION (continued)

	Original Investigation Year							
	Previous 14 Years	FY07	FY08	FY09	FY10	FY11	FY12	Total
Total/Average Number of Investigations	322,000	23,653	21,720	22,687*	22,687	22,687	22,687	
Year Reinvestigation Requested								
FY10	2,147	2,365	2,172	2,269	4,537			13,490
FY11	2,147	1,183	1,086	1,134	1,134	4,537		11,221
FY12	2,147	1,183	1,086	1,134	1,134	1,134	4,537	12,356
FY13				1,134	1,134	1,134	1,134	
FY14						1,134	1,134	
FY15							1,134	
Total/Average	6,440	4,731	3,344	5,672	7,940	7,940	7,940	12,356
Percent Reinvestigations Requested	2%	20%	20%	20%	35%	35%	35%	

*Projected average based on FY07 and FY08.

When the Division receives a request to reopen a case, the Division will follow a two part process:

First, Children’s Service Specialists will be needed to screen the validity of the request to determine if the investigation was improperly conducted or if there is new information available. The Division estimates an average of 12,356 requests for cases to be reopened will be made each year. 40 cases per month or 480 annually can be screened per Children’s Service Specialist, therefore 26 Children’s Service Specialist are needed (12,356 ÷ 480).

ASSUMPTION (continued)

In addition to the 26 Children's Service Specialists needed for the screening process, the following FTE needed are calculated as follows:

4 Children's Services Supervisors (26 workers / 7 supervisors per worker = 4 supervisors)

5 Office Support Assistants (30 workers & supervisors / 4 professional staff per support * .75 ratio = 6 OSAs)

2 Senior Office Support Assistant (30 workers & supervisors / 4 professional staff per support * .25 ratio = 2 SOSA)

As a result of the screening process, the Division estimates that only 50% or 6,178 (12,356 * .50) of the requests for reopened cases would result in a reinvestigation. Based on an average caseload of 12 investigations per worker per month (144 annually), the Division anticipates a staffing need of 43 additional Children's Service Workers to meet the provisions of this bill (average annual investigations of 6,178 ÷ 144 reinvestigations completed per worker annually).

In addition to the 43 Children's Service Workers, the following FTE needed are calculated as follows:

6 Children's Services Supervisors (43 workers / 7 supervisors per worker = 6 supervisors)

6 Office Support Assistants (49 workers & supervisors / 6 professional staff per support * .75 ratio = 6 OSAs)

2 Senior Office Support Assistant (49 workers & supervisors / 6 professional staff per support * .25 ratio = 2 SOSA)

A total of 94 FTE is needed. All staff will need to be on board at the beginning of FY10 so they are trained by the time this bill would go into effect.

In addition, the Division will need access to a full-time attorney to assist in determining if there is enough evidence to re-open the case due to the higher standard of preponderance of the evidence.

ASSUMPTION (continued)

FACES SYSTEM PROGRAMMING IMPACT:

This legislation will require a case, which has already been closed, to be reopened in the electronic case file, creating significant changes to the existing database. Analysis of potential computer system programming changes as a result of this legislation indicates a total of 35,100 staff hours at a total cost of \$2,632,500 (35,100 hours x \$75.00 per hour = \$2,632,500). This projection includes technical analysis, development of business requirements, and system coding, development, and testing.

Department of Social Services – Children’s Division estimates the total cost of the proposal to be approximately \$8.7 million in FY10 and approximately \$5.5 million in subsequent years. This cost is split among the General Revenue and Federal Funds.

Officials from the **Department of Social Services – Legal Services Division (DLS)** assume Section 210.152.3 can reasonably be expected to require the Children’s Division CD to process thousands of requests to review and reopen cases.

The statute is not time limited, meaning that any party to an investigation could request a review at any time. This means that the Children’s Division will be faced with a very large number of requests to review old cases within the first years after the bill was enacted. It is impossible to accurately estimate the total number of cases which the Children’s Division would have to review.

The Children’s Division has assumed that an average of 12,356 cases will be requested to be reviewed yearly. They also estimate that only 50% of these cases would be reopened based on their review. Thus 6,178 cases would result in a reinvestigation. It is assumed that in all these cases the person aggrieved by the Children’s Division decision on review would have a right to appeal to the CANRB and/or to circuit court. Assuming that just 1% of these cases were appealed to Circuit Court, DLS would be required to handle an additional 62 cases. The case load of a DLS attorney is 100 cases. In addition to the 62 new cases, an attorney would have to be available to advise CD on some cases, whether it is appropriate to reopen the investigation or not. DLS estimates that it will require an additional 1 FTE lawyer (at 37,560 per year, plus fringe benefits and equipment and expense) for DLS in the first year after enactment and each year thereafter. In addition, DLS anticipates that the costs of litigation may average approximately \$2,500 per case; however, there may be individual cases in which the costs exceed \$10,000. DLS estimates that litigation expenses could exceed \$155,000, depending on the number of cases and the complexity of the litigation.

ASSUMPTION (continued)

DLS estimates the total cost of the proposal to be approximately \$60,000 in FY10 and approximately \$70,000 in subsequent years. This cost is split among the General Revenue and Federal Funds.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSHP)** assume this proposed legislation would increase the number of name-based criminal history record checks substantially. By using numbers provided by the Department of Elementary and Secondary Education, MSHP conservatively estimates the minimum amount of increase in criminal record searches to be 120,000 per year. The current fee for state name-based criminal history record checks is \$9. The minimum fiscal impact will be \$1,080,000 (120,000 checks x \$9).

MSHP is in the process of updating the Criminal History Record system. With this new system, MSHP will have the capability of providing an electronic notification for updated criminal history record information based on a flagging mechanism. This “RapBack” system will streamline the information provided to the Department of Elementary and Secondary Education. This “RapBack” system is tentatively scheduled for implementation in FY11. Therefore, there should be no impact in FY11 and beyond.

Oversight assumes Missouri State Highway Patrol would process approximately 12,000 background checks on new certificated and non-certificated school employees annually. Oversight assumes revenues of \$108,000 per year for FY11 and beyond.

Officials from the Greene County Sheriff’s Department, Jackson County Sheriff’s Department, St. Louis County Police Department, Columbia Police Department, Kansas City Police Department, St. Louis Metropolitan Police Department, Columbia Public Schools, Kansas City Public School Board, Mexico Public Schools, Nixa Public Schools, Parkway Public Schools, Sedalia School District, and the St. Louis Public Schools did not respond to Oversight’s request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Costs – Department of Elementary and Secondary Education (DESE)</u>			
Personal Service	(\$34,484)	(\$42,623)	(\$43,901)
Fringe Benefits	(\$16,770)	(\$20,728)	(\$21,349)
Equipment and Expense	(\$3,991)	(\$1,766)	(\$1,819)
<u>Total Costs – DESE</u>	(\$55,245)	(\$65,117)	(\$67,069)
FTE Change – DESE	1.5 FTE	1.5 FTE	1.5 FTE
 <u>Costs – Department of Health and Senior Services (DHSS)</u>			
Personal Service (temporary staff)	(\$467,958)	\$0	\$0
Personal Service (permanent staff)	(\$27,686)	(\$34,220)	(\$35,247)
Fringe Benefits	(\$13,464)	(\$16,641)	(\$17,141)
Equipment and Expense	(\$306,203)	(\$26,795)	(\$27,568)
<u>Total Costs – DHSS</u>	(\$815,311)	(\$77,656)	(\$79,956)
FTE Change – DHSS	1 FTE	1 FTE	1 FTE
 <u>Costs – Department of Social Services – Children’s Division (DOS) (§210.152)</u>			
Personal Service	(\$2,249,568)	(\$2,317,055)	(\$2,386,566)
Fringe Benefits	(\$1,093,965)	(\$1,126,784)	(\$1,160,587)
Equipment and Expense	(\$1,091,050)	(\$465,644)	(\$479,613)
FACES System Changes	(\$2,000,700)	(\$465,644)	(\$479,613)
<u>Total Costs – DOS (§210.152)</u>	(\$6,435,283)	(\$4,375,127)	(\$4,506,379)
FTE Change – DOS (§210.152)	68.24 FTE	68.24 FTE	68.24 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2010 (10 Mo.)	FY 2011	FY 2012
<u>Costs – Department of Social Services – Legal Services Division (LSD)</u> (§210.152)			
Personal Service	(\$18,047)	(\$22,315)	(\$22,984)
Fringe Benefits	(\$8,776)	(\$10,852)	(\$11,177)
Equipment and Expense	(\$5,806)	(\$5,021)	(\$5,172)
<u>Total Costs – LSD</u>	<u>(\$32,629)</u>	<u>(\$38,188)</u>	<u>(\$39,333)</u>
Net FTE Change – DLS	.56 FTE	.56 FTE	.56 FTE
 ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	 <u>(\$7,338,468)</u>	 <u>(\$4,556,088)</u>	 <u>(\$4,692,737)</u>
 Estimated Net FTE Change for General Revenue Fund	 71.3 FTE	 71.3 FTE	 71.3 FTE
 CRIMINAL RECORDS FUND			
<u>Revenues – Missouri State Highway Patrol</u>			
Criminal record checks	<u>\$1,080,000</u>	<u>\$108,000</u>	<u>\$108,000</u>
 ESTIMATED NET EFFECT ON CRIMINAL RECORDS FUND	 <u>\$1,080,000</u>	 <u>\$108,000</u>	 <u>\$108,000</u>

<u>FISCAL IMPACT - State Government</u>	FY 2010	FY 2011	FY 2012
(continued)	(10 Mo.)		

FEDERAL FUNDS

Costs – Department of Social Services – Children’s Division (DOS) (§210.152)

Personal Service	(\$849,010)	(\$874,481)	(\$900,715)
Fringe Benefits	(\$412,874)	(\$425,260)	(\$438,018)
Equipment and Expense	(\$411,774)	(\$175,739)	(\$181,011)
FACES System Changes	<u>(\$631,800)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs – (DOS) (§210.152)</u>	<u>(\$2,305,458)</u>	<u>(\$1,475,480)</u>	<u>(\$1,519,744)</u>
Net FTE Change – DOS	25.76 FTE	25.76 FTE	25.76 FTE

Costs – Department of Social Services – Legal Services Division (LSD) (§210.152)

Personal Service	(\$14,179)	(\$17,533)	(\$18,059)
Fringe Benefits	(\$6,895)	(\$8,526)	(\$8,782)
Equipment and Expense	<u>(\$4,562)</u>	<u>(\$3,945)</u>	<u>(\$4,063)</u>
<u>Total Costs – LSD</u>	<u>(\$25,636)</u>	<u>(\$30,004)</u>	<u>(\$30,904)</u>
Net FTE Change – LSD	.44 FTE	.44 FTE	.44 FTE

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$2,331,094)</u>	<u>(\$1,505,484)</u>	<u>(\$1,550,648)</u>
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Estimated Net FTE Change for Federal Funds	26.2 FTE	26.2 FTE	26.2 FTE
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<u>FISCAL IMPACT - Local Government</u>	FY 2010	FY 2011	FY 2012
	(10 Mo.)		

LOCAL GOVERNMENT

<u>Costs – School Districts</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

In order to obtain a teaching certificate, an applicant must complete a background check as provided in section 168.133 (Section 168.021).

The proposal changes, from two to one, the number of sets of fingerprints an applicant must submit for a criminal history background check. An employee employed after July 1, 2010, who is required to undergo a criminal background check must register with the family care safety registry. The Department of Elementary and Secondary Education must facilitate an annual check for employees with active teaching certificates against criminal history records in the central repository, sexual offender registry, and child abuse central registry. The Missouri Highway Patrol must provide ongoing electronic updates to criminal history background checks for those persons previously submitted by the Department of Elementary and Secondary Education (Section 168.133).

The Children's Division may reopen a case for review at the request of any party to the investigation if information is obtained that the investigation was not properly conducted under the provisions of Chapter 210, RSMo, or if new information becomes available (Section 210.152).

The proposal adds the Department of Elementary and Secondary Education to the list of departments that must collaborate to compare records on child-care, elder-care, and personal-care workers, including those individuals required to undergo a background check under section 168.133 and who may use registry information to carry out assigned duties (Sections 210.915 and 210.922)

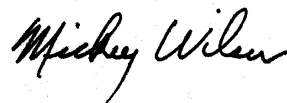
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
Office of Administration
Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Public Safety
– Missouri State Highway Patrol
– Director's Office
Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender
Boone County Sheriff's Department
Springfield Police Department

NOT RESPONDING

Greene County Sheriff's Department
Jackson County Sheriff's Department
St. Louis County Police Department
Columbia Police Department
Kansas City Police Department
St. Louis Metropolitan Police Department
Columbia Public Schools
Kansas City Public School Board
Mexico Public Schools
Nixa Public Schools
Parkway Public Schools
Sedalia School District
St. Louis Public Schools



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Mickey Wilson, CPA
Director
March 4, 2009

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