

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6526-01
Bill No.: SB 1073
Subject: Administrative Rules; Adoption; Children and Minors; Children's Division; Civil and Criminal Procedure; Courts, Juvenile; Domestic Relations; Family Law; Guardians; Health Care; Social Services Department; Social Workers; Youth Services Division
Type: Original
Date: March 29, 2016

Bill Summary: This proposal modifies several provisions relating to foster care.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$0 to \$221,418)	(\$0 to \$265,702)	(\$0 to \$265,702)
Total Estimated Net Effect on General Revenue	(\$0 to \$221,418)	(\$0 to \$265,702)	(\$0 to \$265,702)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Savings and losses \$0 to exceeding \$200,000 annually and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services (DSS) - Children's Division (CD), Division of Legal Services (DLS) and Division of Youth Services (DYS)** state in section 37.719, current law gives the Office of the Child Advocate the authority to conduct an independent review of any entity within a county that has experienced three (3) or more review requests in a calendar year, including but not limited to Children's Division, Juvenile Office or guardian ad litem (GALs). This bill reduces this number to two (2) or more review requests. Current law also provides that the Office of the Child Advocate provide these reviews to the Children's Division and the Office of the State Court Administrator. This bill adds the General Assembly to that list.

In Section 162.685 subsection (1), current law provides that the State Board of Education shall adopt standards to be used throughout the state of Missouri in determining whether children shall be defined as "handicapped children" or "severely handicapped children", together with regulations implementing these standards. This bill adds subsection (2), which requires that in adopting these standards the consideration of trauma as a result of experience in foster care be considered for the purposes of determining a student's eligibility for special educational services.

This bill creates a new section, 210.564 and cites it in subsection 1 as the "Foster Care Bill of Rights".

Subsection 2 this bill requires the Children's Division to:

- Provide every school-aged foster child and his or her foster parent with an age-appropriate orientation and explanation of the foster care bill of rights
- Requires any Children's Division office, residential care facility, child placing agency, or other agency involved in the care and placement of foster children to post the foster care bill of rights in the office, facility, or agency,
- Requires the Division to make the Foster Care Bill of Rights readily available and accessible online.

This bill also requires the CD to provide every school-aged foster child and his or her foster parents an age-appropriate orientation and explanation on the foster child's rights.

It is assumed that this orientation would be completed by the case managers in the course of child visits. This would require minor policy revision to clarify the content and documentation of this orientation.

ASSUMPTION (continued)

Additionally this bill requires any home or facility licensed to care for six or more foster children to post the Foster Care Bill of Rights and requires the CD to develop and distribute posters of the Foster Children's Bill of Rights.

This would require a minimal cost for printing posters for foster homes with 6 or more children. These are group homes and there are currently about 15 group homes in the state.

The cost to implement an age appropriate orientation/explanation of the Foster Care Bill of Rights to foster children and to print up posters would be a minimal cost that could be absorbed.

Subsection 3 requires the Foster Care Bill of Rights to be as follows:

- 1) This bill requires child welfare professionals, (including but not limited to, GALs, Juvenile Officers and CD) to support a child's return to custody and care of the parents or guardians with whom the child resided immediately prior to state custody provided that:
 - a) When return to custody and care of the parents or guardians with whom the child resided at the time of placement is not appropriate or possible, child welfare professionals shall attempt to place the child with suitable kinship relations before seeking other placement options or non-kinship adoptive families.
 - b) This bill requires the CD to ensure continuity of foster placement, without unnecessary repeated changes (except in emergency situations or if the family support team, including the parents and child find a change in placement to be in the best interest of stability).
- 2) This bill requires the CD to ensure regular visitation and communication between siblings in care and to support regular visitation and communication between children in care and their parents and relatives (unless otherwise prohibited and contrary to the child's best interests) provided that:
 - a) This bill requires that terms and parameters of visitation and communication between siblings and between children in care and parents and other relatives are agreed upon in writing and included in the case plan;
 - b) If the terms and parameters are modified between family support team meetings, the written plans shall be distributed to the child and all parties to the case plan; and
 - c) Requires children and youth in residential treatment or other secure facility to be allowed, to receive visitors including siblings, foster parents, attorneys, GALs, special advocates, and when appropriate, birth parents and extended family members.
- 3) Requires the CD to assure that each child or youth in care engages in ongoing, normalizing, and age or developmentally appropriate extracurricular, enrichment and social activities according to their interests, provided that:
 - a) Child or youth caregivers shall use a reasonable and prudent person standard to make decisions about the child's participation in normalizing activities to promote the most family-like environment for the child.

ASSUMPTION (continued)

- b) Prohibits any state regulation or policy from preventing or creating unnecessary barriers to access such activities. The child welfare team, including the child shall determine when barriers are necessary. Prohibits any agency contracted by the state to provide case management or residential treatment or transitional living services from creating any rules or policies which prevent or create unnecessary barriers to access such activities.
 - c) Requires each child in the CD's care case plan to include extracurricular, enrichment and social activities according to their interests and shall be reviewed periodically.
 - d) Requires the CD develop a credible, child friendly grievance procedure for children aged 14 or older to achieve resolution for their complaints related to normalizing activities. It also requires the CD provide an explanation of the procedures to children that is in a developmentally-age appropriate format at every family support team meeting or case review.
- 4) Requires child welfare professionals and family support team members to work with each child in care (aged 13 and older) to develop a case plan which shall address and support a permanent placement goal and where appropriate, a concurrent goal. Plans shall be developed within 30 days of a child's entrance into the custody of the state, provided that:
- a) The case plan shall address a child's specific medical and emotional needs in addition to provisions for normalizing experiences and visitation plans and shall support permanency goals. Requires that every child be provided a copy of his or her case plan and any revisions.
 - b) Requires child welfare professionals to ensure each child in state custody is allowed to attend court hearings, unless his or her presence is waived by the GAL and the court for good cause. Additionally children shall be allowed to attend all Family Support Team (FST) and Permanency Plan Review Team (PPRT) meetings, unless the FST determines it is not the child's best interest, or the child requests not to attend. Children age 14 or older shall not be prohibited from participating. FSTs shall be scheduled outside school hours or on school vacations or holidays to support successful educational outcomes for children. Every child aged 14 or older shall be allowed to name at least two individuals of their choice to become members of the FST.
 - c) Each case plan shall be written in child- friendly language to the extent possible. Each case plan shall be explained to the child in an age or developmentally-appropriate manner. Each child shall be entitled to ask questions about his or her plan and shall receive explanations in an age or developmentally-appropriate manner from the case manager, caregiver or GAL.
- 5) Each child in foster care shall be entitled to:
- a) Appropriate and properly managed health care, including psychotropic medications, in context of a coordinated healthcare plan, which provides for the child's physical, emotional, developmental, educational and mental well-being, and
 - b) An individualized psychotropic medication plan aimed at cessation or pharmaceutical treatment whenever possible.

ASSUMPTION (continued)

In section 210.565.2 current law provides definitions of terms as used in this section. This bill adds a definition for "Kin" or "Kinship" which means: a person who is related to the child by blood or affinity beyond the third degree, or person who is not so related to the child but has a close relationship with the child or the child's family, including but not limited to godparents, neighbors, teachers, or close family friends.

In section 210.565.3, current law provides the order of preference for the placement of a child. This bill modifies subsection (2) by replacing the term "trusted adult that has a preexisting relationship" with the term "Kin".

In section 210.565.8, current law provides an exception on a case by case basis in which non-safety related requirements may be waived for grandparents or other relatives in regard to foster care licensure. This bill adds "kin" to that provision.

This bill adds section 210.565.9, which allows siblings placed in the home of a grandparent, other relative, kin, or foster parent to sleep in the same room if doing so would be in the children's best interest and would not present a safety concern.

In section 210.566.8, this bill adds the provision that foster parents have the right to access and review all reports written or produced by a court –appointed special advocate concerning a child in their care.

In Section 211.171.3, this bill adds that a foster parent of a child in a juvenile court case proceeding (under subdivisions (1) or (2) of subsection 1 or section 211.031) shall have the right to intervene as a party. The court must have the foster parent's consent to join a foster parent as a party to the case.

In Section 484.355, provisions were created to provide standards and duties for guardians ad litem, in regard to all family and juvenile court cases.

In Section 660.022, provisions were created that requires the DSS, with the assistance of the Office of the State Courts Administrators (OSCA) to promulgate rules and regulations pertaining to the role of juvenile officers in child welfare proceedings. It must include a juvenile officer code of ethics, administrative standards, the Juvenile officer's role in pre-disposition delinquency and status offense proceedings, their role in child abuse neglect investigations and proceedings and general practice standards.

The Division of Legal Services (DLS) states that Section 660.022 requires DSS, in conjunction with OSCA to promulgate rules regarding the juvenile office. While the juvenile office has been working to update its standards, the current standards are not written in such a way that they

ASSUMPTION (continued)

could be easily converted to potential 536 rules, and so considerable time will be needed to convert these standards into regulations. It will take a DLS attorney approximately 100-500 hours to complete this task which could be absorbed.

Further, 660.022 will likely place DSS into litigation. Such litigation would likely be handled by the Attorney General's office, and so the time necessary for DLS input could be absorbed by current staff.

Section 210.565.8-9 further requires CD to allow non-safety waivers for children to be placed in kinship homes. Federal law does not allow this and thus would DSS would not be able to claim IV-E funding for them.

As a result, children who were previously eligible for IV-E funding would no longer be eligible and would become state funded, increasing the need for General Revenue.

CD reasonably anticipates that there could be the loss of federal IV-E funding as a result of this legislation. The losses could affect funding for Foster Care, Adoption Assistance, Adoption Incentives, Chafee and Guardianship. As of February 2016, there were 473 children in unlicensed kinship homes. With this change in law, CD assumes the number of children would increase by 25% or 118. Based on the FY 2015 Foster Care maintenance rate for ages 6-12 with the professional parenting payment, the total cost of the additional children is \$635,784 (\$5,388 x 118). With the assumption CD will lose the FMAP rate (63.32%) of the eligibility rate (66%) of the \$635,784, it is estimated the impact to General Revenue would be \$0 to \$265,702.

The Children's Division will have some additional requirements with case plans and updating some procedural measures based upon this legislation.

DYS has no fiscal impact from this legislation.

Oversight assumes the General Assembly would replace the lost federal IV-E funds with General Revenue funds to continue the program. Oversight also assumes lost funds for FY 2017 would be for 10 months.

Officials from **St. Louis County** state that section 211.171.3 may have a direct impact on the county. The state states that foster parents shall have the right to intervene in abuse and neglect cases. If foster parents intervene as a party, they could arguably qualify for appointed counsel if they are determined to be indigent parties (including children and parents) in abuse and neglect proceedings wherein the county would be responsible for the costs of legal representation.

ASSUMPTION (continued)

Officials are not sure of the exact fiscal impact on the county because they are not sure of the potential number of such cases where indigent foster parents would seek to intervene as a party to the case. The impact may be negligible where the county can use existing resources or the impact may be great wherein the county would have to request funds to pay for an additional lawyer under a contractual basis.

For these reasons, St. Louis County assumes an unknown fiscal impact.

Officials from the **Callaway County Commission** state this proposal will have an unknown fiscal impact on Callaway County.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Elementary and Secondary Education**, the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Office of Administration**, **Office of Child Advocate** and **Office of State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of Secretary of State** did not respond to **Oversight's** request for a statement of fiscal impact.

Officials from the following **counties**: Andrew, Atchison, Audrain, Barry, Bollinger, Boone, Buchanan, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Cole, Cooper, Dekalb, Dent, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Platte, Pulaski, Scott, St. Charles, St. Francois, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
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GENERAL REVENUE FUNDS

Costs - DSS

Replacement of lost IV-E funds due to non-safety waivers for kinship placements	<u>(\$0 to \$221,418)</u>	<u>(\$0 to \$265,702)</u>	<u>(\$0 to \$265,702)</u>
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**ESTIMATED NET EFFECT ON
GENERAL REVENUE FUNDS**

<u>(\$0 to \$221,418)</u>	<u>(\$0 to \$265,702)</u>	<u>(\$0 to \$265,702)</u>
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FEDERAL FUNDS

Savings - DSS

Reduction in IV-E funds used	\$0 to \$221,415	\$0 to \$265,702	\$0 to \$265,702
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Loss - DSS

Reduction in eligibility for IV-E funds for non-safety waivers for kinship placements	<u>(\$0 to \$221,418)</u>	<u>(\$0 to \$265,702)</u>	<u>(\$0 to \$265,702)</u>
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**ESTIMATED NET EFFECT ON
FEDERAL FUNDS**

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
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**LOCAL GOVERNMENTS -
COUNTIES**

Costs - Counties (§211.171)

Increase in litigation costs/attorney fees	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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**ESTIMATED NET EFFECT ON
LOCAL GOVERNMENTS -
COUNTIES**

<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

This act modifies several provisions of law relating to foster care, including: (1) Office of the Child Advocate independent reviews; (2) special education services; (3) the Foster Care Bill of Rights; (4) kin placement; (5) CASA reports; (6) foster parent standing; (7) standards for guardians ad litem; and (8) juvenile officers.

OFFICE OF THE CHILD ADVOCATE REVIEWS (Section 37.719)

Under current law, the office of the child advocate is authorized to conduct an independent review of any entity within a county that has experienced three or more review requests in a calendar year. This act change the number of review requests from three to two, and requires the Office of the Child Advocate to submit any findings and recommendations following a review to the General Assembly.

SPECIAL EDUCATION SERVICES (Section 162.685)

This act requires that any standards developed by the State Board of Education for the purposes of determining a child's eligibility for special educational services allow the consideration of trauma as a result of experience in foster care.

FOSTER CARE BILL OF RIGHTS (Section 210.564)

This act establishes and enumerates the Foster Care Bill of Rights. The Children's Division shall provide every school-aged foster child and his or her foster parent with an age-appropriate orientation and explanation of the bill of rights, as well as make them readily available and easily accessible online. Additionally, every Children's Division office, residential care facility, child placement agency, or other agency involved in the care and placement of foster children shall post the bill of rights in the office, facility, or agency.

KIN PLACEMENT (Section 210.565)

Under current law, preferential placement of a child first goes to grandparents, next to trusted adults with a pre-existing relationship with the child, and then to licensed foster parents. This act supplants the trusted adults placement option with that of kin or kinship placement, defined in the act as a person who is related to the child by blood or affinity beyond the third degree or a

FISCAL DESCRIPTION (continued)

person who is not so related, but has a close relationship with the child or child's family. Additionally, kin who have a child in their care under this provision may have, on a case-by-case basis, licensure standards not related to safety waived, to the same extent as grandparents under current law. Finally, foster children of the opposite sex who are siblings may be permitted to sleep in the same room when placed in the home of a grandparent, other relative, or kin, if doing so would be in the best interests of the children and presents no safety concerns.

CASA REPORTS (Section 210.556)

This act grants foster parents the right to access and review all reports written or produced by a court-appointed special advocate concerning a child in their care.

FOSTER PARENT STANDING (Section 211.171)

This act grants a foster parent of a child in a juvenile court proceeding specified in the act the right to intervene as a party. The court may not join a foster parent as a party without the foster parent's consent.

GUARDIAN AD LITEM STANDARDS (Section 484.355)

This act specifies the standards that guardians ad litem (GAL) shall adhere to in family and juvenile courts, including standards relating to GAL case loads; the best interests of the child; diligent advocacy for the child; reasonable access to the child and the child's reasonable access to the guardian ad litem (GAL); GAL's access to relevant records relating to the child; confidentiality of information; case review; GAL-child interactions; GAL participation in plans, staffings, and orders relating to the child; GAL presence in court proceedings; and GAL recommendations to the court.

JUVENILE OFFICERS (Section 660.022)

This act requires the Department of Social Services, with the assistance of the Office of State Courts Administrator, to promulgate rules and regulations pertaining to the role of juvenile officers (JO) in child welfare proceedings, including a JO code of ethics, JO administrative standards, the JO's role in pre-disposition delinquency and status offense proceedings, the JO's role in child abuse and neglect investigations and proceedings, and general practice standards for JOs.

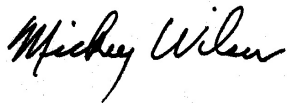
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Mental Health
Department of Social Services -
 Children's Division
 Division of Legal Services
 Division of Youth Services
Joint Committee on Administrative Rules
Office of Administration -
 Office of Child Advocate
Office of State Courts Administrator
Callaway County Commission
St. Louis County

Not Responding:

Office of Secretary of State



Mickey Wilson, CPA
Director
March 29, 2016

Ross Strobe
Assistant Director
March 29, 2016