

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4531-02
Bill No.: HCS for SB 693
Subject: Courts; Courts, Juvenile; Children and Minors; Civil Procedure; Criminal Procedure; Property, Real and Personal; Estate, Wills and Trusts; Guardians; Mental Health; Department of Health and Senior Services
Type: Original
Date: April 24, 2018

Bill Summary: This proposal modifies provisions relating to court proceedings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2019	FY 2020	FY 2021 (6 mos)	Fully Implemented (FY 2027)
General Revenue	(\$57,908 to \$70,308)	(\$70,982 to \$85,862)	(\$6,736,791 to \$6,751,671)	(\$10,347,039 to \$10,361,919)
Total Estimated Net Effect on General Revenue	(\$57,908 to \$70,308)	(\$70,982 to \$85,862)	(\$6,736,791 to \$6,751,671)	(\$10,347,039 to \$10,361,919)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2027)
Juvenile Justice Preservation Fund	Could exceed \$2,247,013 to \$2,696,416	Could exceed \$2,247,013 to \$2,696,416	Could exceed \$2,247,013 to \$2,696,416	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	Could exceed \$2,247,013 to \$2,696,416	Could exceed \$2,247,013 to \$2,696,416	Could exceed \$2,247,013 to \$2,696,416	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 25 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2019	FY 2020	FY 2021 (6 mos)	Fully Implemented (FY 2027)
Federal Funds*	\$0	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

*Distribution increases (decreases) net to zero.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2027)
General Revenue	0 FTE	0 FTE	34.65 FTE	34.65 FTE
Federal Fund	0 FTE	0 FTE	.35 FTE	.35 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	35 FTE	35 FTE

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 2019	FY 2020	FY 2021	Fully Implemented (FY 2027)
County Funds	\$0 to \$100,000	\$0 to \$100,000	Less than \$100,000	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

§§211.021, 211.031, 211.032, 211.033, 211.041, 211.061, 211.071, 211.073, 211.081, 211.091, 211.101, 211.161, 211.181, 211.321, 211.421, 211.425, 211.431, 221.044

Officials at the **Department of Corrections (DOC)** assume this proposal increases the age when a child can be prosecuted in adult court from 17 to 18. The bill will continue to allow children 12 and over to be tried in adult court for a serious felony or with two or more prior felonies and allow discretion to transfer children to adult court for other offenses (211.071, RSMo). The current law requires that seventeen year olds be tried in adult court.

In FY17, the DOC admitted 301 offenders who were seventeen years old at the time of the offense to prison and received 382 for probation. The impact of the bill is the number of offenders who were seventeen at the time of the offense who will be sentenced in juvenile court. The DOC expects that seventeen year olds convicted of serious violent offenses will continue to be sentenced in adult court and only young offenders with nonviolent offenses will be transferred to the Division of Youth Services (DYS).

Table 1. New admissions in FY17 of offenders under 18 at time of the offense

Age	FY2015			FY2016			FY2017		
	Non Violent	Serious Violent	Total	Non Violent	Serious Violent	Total	Non Violent	Serious Violent	Total
New Admissions									
13	1	-	1	2	-	2	1	-	1
14	1	-	1	1	-	1	1	-	1
15	9	1	10	3	2	5	2	3	5
16	24	5	29	17	6	23	17	1	18
17	316	25	341	281	21	302	262	39	301
Total	351	31	382	304	29	333	283	43	326
Probation									
13									-
14				2	1	3	1	-	1
15	3	1	4	11	2	13	5	1	6
16	19	4	23	20	1	21	14	1	15
17	403	5	408	438	5	443	361	21	382
Total	425	10	435	471	9	480	381	23	404
Total DOC	776	41	817	775	38	813	664	66	730

ASSUMPTION (continued)

The estimate of seventeen year olds who will not be certified as an adult is based upon the percent of juveniles who have been received by the Division of Youth Services, compared to the percent received by the Department of Corrections (Table 2.). The DOC percentage increases as the age of the child increases, and for 16 year olds 13.6% were sent to the DOC. The DOC estimates that 25% of seventeen year olds convicted of a felony other than a serious violent offense will be certified as an adult, and 75% will be received by the DYS.

Table 2. Intake of juveniles by Department of Corrections and the Division of Youth Services

Age at offense	DOC nonviolent intake				DYS intake				Total DOC+DYS	Percent DOC	Percent DYS
	FY15	FY16	FY17	Total	FY15	FY16	FY17	Total			
13	1	2	1	4	51	47	45	143	147	2.8%	97.2%
14	1	3	2	6	107	86	93	286	292	2.1%	97.9%
15	12	14	7	33	193	187	188	568	599	5.8%	94.2%
16	43	37	31	111	303	276	239	818	929	13.6%	86.4%
Total	57	56	41	154	654	596	563	1,813	1,967	8.5%	91.5%
Estimated percent for DOC for 17 year olds for nonviolent offenses										25.0%	75.0%

If 25% of seventeen year olds convicted of nonviolent offenses and all 17 years olds convicted of serious violent offenses are tried and sentenced in adult court, then using FY17 admissions, there will be 197 new admissions and 271 probationers sentenced instead in juvenile court, for a total reduction of 468 young offenders (75% of FY17 nonviolent intake).

Table 3. Apportionment of 17 year olds using 25%/75% DOC/DYS for other nonviolent juvenile offenders received by DOC

	FY15	FY16	FY17
New admissions			
DOC	79	70	66
Div. of Youth Services	237	211	197
Total new admissions	316	281	262
Probation			
DOC	101	110	90
Div. of Youth Services	302	329	271
Total probation	403	438	361

Of the 197 new admissions in FY17, 118 were sentenced to serve a prison sentence (term) and 79 were sentenced to a 120-day sentence and then probation. The average sentence of the term sentences in FY17 was 5.8 years and the average percent of sentence served to first release was 36.3%. In addition, the DOC is adding an estimate for parole returns of 40% of the remaining time left on the sentence after first release to account for offenders who are revoked from parole, giving a total prison time of 3.6 years. Most offenders serving a felony probation serve a

ASSUMPTION (continued)

five-year term, but the young offenders, because they are serving nonviolent offenses, will be eligible for earned compliance credits and are expected to serve three years before discharge.

Table 4. Average sentence and time served by nonviolent seventeen year olds sentenced in juvenile court in FY17

	Intake	Average Sentence (years)	Percent Sentence Served	Time to First Release	Parole Returns (40% return)	Total Prison Time	Parole
Term sentence	118	5.8	36.3%	2.1	1.5	3.6	2.1
120-Day & release to probation	79	5.6		0.3	-	-	-
New admissions	197						
Probation	271	3.0					
Total diverted to DYS	468						

If offenders sentenced to prison are expected to serve 3.6 years of the 5.8 years in prison and the remainder on parole, then the prison population will decrease by 425 (118*3.6) and the parole caseload will decrease by 260 (118*2.2) after the offenders are transferred to the DYS. Similarly, the probation caseload will decrease by 1050 ([79+271]*3). The impact is moved forward two and a half years because the enactment date of the bill is January 1, 2021.

Table 5. Impact of raising the age to 18

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
New										
Admissions	X	X	-59	-118	-118	-118	-118	-118	-118	-118
Probations	X	X	-175	-350	-350	-350	-350	-350	-350	-350
Cumulative Populations										
Prison	X	X	-59	-177	-295	-413	-425	-425	-425	-425
Parole	X	X	X	X	X	X	-106	-224	-260	-260
Probation	X	X	-175	-525	-875	-1050	-1050	-1050	-1050	-1050
Impact										
Prison Population			-59	-177	-295	-413	-425	-425	-425	-425
Field Population			-175	-525	-875	-1050	-1156	-1274	-1310	-1310
Population Change			-234	-702	-1170	-1463	-1581	-1699	-1734	-1734

ASSUMPTION (continued)

Revised P&P Cost

Change in prison admissions and probation openings with legislation

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
New Admissions										
Current Law	0	0	118	118	118	118	118	118	118	118
After Legislation	0	0	0	0	0	0	0	0	0	0
Probation										
Current Law	0	0	350	350	350	350	350	350	350	350
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	0	0	-118.0	-118.0	-118.0	-118.0	-118.0	-118.0	-118.0	-118.0
Probations	0	0	-350.0	-350.0	-350.0	-350.0	-350.0	-350.0	-350.0	-350.0
Cumulative Populations										
Prison	x	x	-59	-177	-295	-413	-425	-425	-425	-425
Parole	x	x	x	x	x	x	-106	-224	-260	-260
Probation	x	x	-175	-525	-875	-1050	-1050	-1050	-1050	-1050
Impact										
Prison Population	x	x	-59	-177	-295	-413	-425	-425	-425	-425
Field Population	x	x	-175	-525	-875	-1,050	-1,156	-1,274	-1,310	-1,310
Population Change	x	x	-234	-702	-1,170	-1,463	-1,581	-1,699	-1,734	-1,734
P&P Officers +/-		0	0	-2.0	-6.0	-9.0	-9.0	-11.0	-11.0	-11.0

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

ASSUMPTION (continued)

The DOC cost of incarceration is \$17,003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

The DOC would assume this legislation will result in long term cost avoidance as indicated in the chart below.

Summary

Using admission and release statistics for FY17 and with admission data provided by the Division of Youth Services, the DOC estimates that increasing the age for sentencing in adult court will reduce the prison population by 425 offenders and the field population by 1,310 offenders by FY28. The estimate is based upon an assumption that 75% of offenders who were seventeen at the time of the offense will not be certified as adults. It should be noted that young offenders have high recidivism rates and it may be that the estimated reduction in the DOC population is not realized because of new crimes committed in early adulthood. Therefore, DOC assumes the following cost avoidance for this proposal:

	fewer # to prison	Cost per year	Total Savings for prison	fewer Probation and Parole Officers	P&P savings per year	Grand Total - SAVINGS Prison and Probation (includes and 2% inflation)
Year 1	0	(\$6,206)	\$0	0	\$0	\$0
Year 2	0	(\$6,206)	\$0	0	\$0	\$0
Year 3	59	(\$6,206)	\$380,947	0	\$0	\$380,947
Year 4	177	(\$6,206)	\$1,165,697	2	\$126,770	\$1,292,467
Year 5	295	(\$6,206)	\$1,981,684	6	\$384,415	\$2,366,099
Year 6	413	(\$6,206)	\$2,829,845	9	\$582,856	\$3,412,701
Year 7	425	(\$6,206)	\$2,970,310	9	\$589,176	\$3,559,486
Year 8	425	(\$6,206)	\$3,029,716	11	\$727,909	\$3,757,625
Year 9	425	(\$6,206)	\$3,090,310	11	\$735,793	\$3,826,103
Year 10	425	(\$6,206)	\$3,152,116	11	\$743,786	\$3,895,903

ASSUMPTION (continued)

In addition, DOC assumes this legislation will significantly delay the guardianship process. It will lengthen the amount of time it takes the department to establish guardianship for offenders who are required to have one in place prior to their release to the community. The delay in release from incarceration will accrue the standard cost of incarceration per day of \$17.003 per offender. Also, this legislation would require those offenders in question to remain incarcerated for a longer period of time than others who are incarcerated with similar offenses but who do not require a guardian.

Officials at the **Department of Social Services** assume this proposal raises the age of adult criminal responsibility from 17 to 18 years of age within Chapter 211, RSMo. This change effectively will create new status offense referrals to be processed by the juvenile court as well as shift criminal cases from the court of general jurisdiction to the juvenile and family court system. Section 211.071 raises the age for juvenile certifications to eighteen. Enactment of this proposal will increase the number of juveniles certified to stand trial as an adult as it will add a seventeen year old cohort of youth to the pool of eligibility. An increase in youth involved in juvenile court and those certified as adults will lead to an increase in traditional Division of Youth Services' (DYS) commitments and the dual jurisdiction commitments served by the division. HB-1255, if enacted, would take effect beginning in January 2021.

CD

Children's Division does not anticipate fiscal impact as a result of this legislation. The impact on the Children's Division will not result in the need for any significant increase in the need for legal representation other than what it currently requires. Section 210.110 already defines "child" as a person under 18 years of age for the purposes of laws addressing abused and neglected children.

DYS

The Division of Youth Services (DYS) assumes that raising the age of criminal majority to 18 will likely result in 284 new traditionally committed youth as well as three new dual jurisdiction youth committed to DYS per year. In previous fiscal notes this year related to raising the age of criminal majority, the division reported no fiscal impact. However, since that time core reductions to the budget have created the need to reevaluate this proposal. If this reduction stands programs will close beginning July 1, 2018, lessening the capacity for DYS to serve this new population. The division anticipates a fiscal impact of \$1,805,888 which includes 49 FTE to

ASSUMPTION (continued)

reopen programs needed to accommodate these youth. Note - projections for the dual jurisdiction piece of operations cause some concerns as historically courts' use of the dual jurisdiction program has been very dynamic. Other changes contained within this bill have the potential to substantially impact juvenile office and judicial behavior related to certifications. This makes projecting for dual jurisdiction usage and population less reliable.

FTE BREAKDOWN: (1) Facility Manager II; (3) Group Leader; (37) Youth Specialist; (4) Academic Teacher III; (2) Cook II; and (2) Office Support Assistant = 49 FTE.

RESIDENTIAL TREATMENT

Traditional Commitments

DYS anticipates no fewer than 284 new traditionally committed youth per year from the juvenile court system as a result of this legislation. This assumption is based on SFY 2017 data of 16 year old youth committed as well as data received from the Department of Corrections. This data is thought to be representative of a new baseline in juvenile justice as varying initiatives and diversion programs have worked to reduce the number of youth penetrating the deep-end of the juvenile justice system. The division would require an additional 63 beds to serve this new population. The projected additional beds were arrived at through the following methodology:

DATA

- 2,116 average youth served/FY 17
- 1,233 average youth served in the DYS at a given point in time FY17 or 58.27% of 2,116
- 607 average youth in DYS residential care at a given point in time FY17 or 49.23% of 1,233

PROJECTION

- $2,116 + 284 \text{ new youth} = 2,400 \text{ youth projected to be served per year}$
- $2,400 \times 58.27\% = 1,399 \text{ youth to be served at a given point in time}$
- $1,399 \times 49.23\% = 689 \text{ youth in residential care at a given point in time}$ 689 youth projected in residential care – 590 existing bed spaces for traditionally committed youth = 99 additional beds needed for the new traditionally committed youth.

ASSUMPTION (continued)

Dual Jurisdiction Commitments

Information received from the Department of Corrections indicates that in FY17, 39 serious/violent offenders aged 17 at the time of the offense entered the Department. Given the proposed change to the criteria for certification eligibility, the additional 39 listed above would represent the new candidate pool for certification eligibility. The division assumes 33% would be certified to adult court. This results in 13 additional certified youth bringing the projected total to 69 (see Data below). 69 multiplied by 18%, the current percentage of certifications resulting in orders for dual jurisdiction assessment, projects a new assessment total of 13. On average, assessments were ordered 80% of the time in the previous three fiscal years. Applying this methodology 13 ordered assessments would result in a total of 11 total dual jurisdiction commitments for the year with average lengths of stay anticipated to be three years. This represents three new dual jurisdiction youth committed each year with three year lengths of stay.

DATA

- 56 youth - average youth certified during FY15, FY16 and FY17
- 11 dual jurisdiction assessments ordered annually on average during FY15, FY16 and FY17 or 20% of certified youth
- 9 youth - ordered assessments accepted and committed to dual jurisdiction or 80%

PROJECTION

56 certifications annually (average FY15, FY16 and FY17)
+ 13 new certifications (39 new 17 year old candidates x 33% assumed certification rate)
69 projected youth certified under this proposal

- $69 \times 20\%$ (rate of assessments ordered) = 14 dual jurisdiction assessments ordered
- $14 \times 80\%$ = 12 youth accepted and committed to dual jurisdiction
- $12 - 9$ (that would have come to the division in the existing structure) = 3 additional dual jurisdiction youth committed to DYS/year

The division has 40 beds designated for service to dual jurisdiction youth. 27 of those beds are occupied by dual jurisdiction youth committed under the existing law with average lengths of stay at four years. Under this proposal it is anticipated that the average age of a dual jurisdiction commitment will increase causing the average length of stay of the new population to decrease to three years. The additional three youth per year with a three year average length of stay would lead to a need of 39 dual jurisdiction secure beds at the peak of the cycle in SFY 23. In SFY 24,

ASSUMPTION (continued)

the final seven dual jurisdiction youth with a four year average length of stay will exit. 32 dual jurisdiction secure beds will be necessary thereafter.

	FY 21	FY 22	FY 23	FY 24
Existing DJ Youth + New DJ Youth – anticipated DJ Youth exits	$27 + 11 - 7 =$	$31 + 11 - 7 =$	$35 + 11 - 7 =$	$39 + 11 - 11 - 7 =$
DJ Beds Needed	31	35	39	32

DYS will place the need at 39 total beds to adequately serve this population under this proposal.

Residential Treatment Needs

The division can absorb 59 of the 99 beds needed for traditionally committed youth with existing resources by increasing the number of youth per group to 11. An additional 40 beds for traditionally committed youth will be required. The division would need a total of 39 beds to serve dual jurisdiction youth. The division has capacity currently to serve 40. 27 are filled with existing dual jurisdiction youth. The additional 12 can be served with existing capacity.

- 40 beds for traditional commitments

Assuming the proposed FY 19 budget related to DYS remains unchanged, the division will need to reopen the four groups that have been cut from the budget this year to adequately serve this new population of youth. This would allow sufficient capacity (bed space) to accommodate this new cohort of youth. The cost associated with the reopening of the four groups will be covered by the 49 FTE requested above.

CASE MANAGEMENT

It is assumed that enactment of HCS SB 693 will result in an additional 284 traditionally committed youth and an additional three youth committed under the dual jurisdiction statute equaling 287 new entrants over the course of a year. The present caseload standard set by the division is 16 to 18 youth. Our data suggests that the additional 287 youth added to the division over the course of a year will result in approximately 139 additional youth being served at a given point in time. Services for these 139 youth could be absorbed with existing case management resources.

DAY TREATMENT

The DYS data and projections indicate that the addition of '284'- 17 year old youth to the division would result in the need for day treatment service to 11 additional youth at a given time. Our existing day treatment sites can serve an additional 11 youth with existing resources.

ASSUMPTION (continued)

ASSOCIATED YOUTH SERVICE COSTS

Upon commitment to the division, youth are placed in juvenile detention facilities by the committing court to await placement. Based on the current average cost per day and yearly usage, the division estimates a need of an additional \$19,643 per year for costs related to detention stays. Currently, this cost could be absorbed.

DLS

The proposed legislation will have a fiscal impact on the Division of Legal Services (DLS) beginning on January 1, 2021.

The Division of Legal Services provides legal advice and representation to both the Division of Youth Services (DYS) and the Children's Division (CD). The impact on the Children's Division will not result in the need for any significant increase in the need for legal representation other than what it currently requires. However, the Division of Legal Services can anticipate a significant increase in the number of case referrals from the Division of Youth Services relating to motions to extend jurisdiction for youth when they reach the age of 18.

DLS and DYS

Extending the age of jurisdiction over delinquent youth to the age of 18 may result in an increased number of youth committed to the custody of the Division of Youth Services, beginning on January 1, 2021. This will result in an increased future need for legal advice and assistance from the Division of Legal Services.

Recent projections by DYS indicate that it could receive approximately 284 new traditionally committed 17 year old youth needing DYS' services on a yearly basis. A certain percentage of these youth will require residential placement. Although some of these '284' - 17 year old youths will be able to complete their services prior to their 18th birthday, a substantial number will require continued services beyond their 18th birthday. If between 70-75% of these youth require services beyond their 18th birthday, this will result in approximately 213 referrals to the Division of Legal Services for motions to extend jurisdiction beyond the youth's 18th birthday. Assuming a need for court appearances on each of these cases, each referral would require about ten hours of attorney time or approximately 2,130 hours of attorney time annually.

In addition, DYS has previously projected that it could receive custody on a yearly basis of an additional three dual jurisdiction youth who have been certified as adults but who have been committed to DYS under the dual jurisdiction program. Each of these three youth would require a referral to DLS for legal representation at hearings to be held upon the youths' 18th or 21st birthday. Assuming that each of these cases will take about 20 hours to handle, this will require an additional 60 hours of attorney time for legal representation concerning certified youth.

ASSUMPTION (continued)

The total hours necessary to handle the extensions of jurisdiction and the dual jurisdiction cases would therefore result in a future need for approximately 2190 hours of attorney time. This will result in a need for approximately 1 new FTE for the Division of Legal Services beginning on January 1, 2021.

DLS and CD

Section 210.110 already defines "child" as a person under 18 years of age for the purposes of laws addressing abused and neglected children. Section 211.031.1(1) provides that the juvenile or family court jurisdiction shall extend to any child or person 17 years of age who is found in the state and alleged to be in need of care and treatment, whether due to abuse, neglect, being homeless, being in need of mental health services that the parent or guardian cannot afford or access on behalf of the child, being repeatedly absent from school or home without cause or justification, or who has violated state laws or committed a status offense. This means that the juvenile court is already authorized to extend jurisdiction over a youth who is 17 years of age. By changing the definition of "child" in Chapter 211 to include persons who are 17 years of age, this will harmonize provisions within Chapter 210. It would not significantly impact the Children's Division or the representation of staff or litigation conducted by DLS. The rest of CD's programs and services, including those for abused or neglected children, family preservation, adoption, child care, or requests made under the Interstate Compact for the Placement of Children are already provided to youths up until the time they turn 18, or if currently-existing provisions of law apply, may be extended up to the time the youth turns 21 years of age. Section 211.031.1(2) will now extend juvenile jurisdiction over children 17 years old: (a) who are subject to compulsory school attendance and who are repeatedly and without justification absent from school; or (b) who disobey the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; © who are habitually absent from his or her home without sufficient cause, permission, or justification; (d) whose behavior or associations are otherwise injurious to his or her welfare or to the welfare of others; and (e) who are "charged with an offense not classified as criminal". This legislation should not have substantial fiscal impact on the Children's Division and will not require the Division of Legal Services to provide increased representation to CD.

DLS defers to CD and DYS for the analysis of the fiscal cost on each agency.

Oversight inquired DSS regarding their response to this proposal. Their response is based on the assumption that the adopted FY 2019 budget by the Missouri House of Representatives is showing a reduction of 49 FTE for the Division of Youth Services. DSS's assumption is that should the FY 2019 budget be cut by 49 FTE, this proposal would then require 49 FTE in order to enact this proposal.

ASSUMPTION (continued)

Since the budget process is still on going, Oversight assumes, by current law, DSS has the 49 FTE to enact this proposal and would only need 1 FTE (Attorney) based on the previous version. Therefore, Oversight will assume the cost of 1 FTE Attorney as follows:

	GR	Federal	Total
FY 2019	\$ 0	\$ 0	\$ 0
FY 2020	\$ 0	\$ 0	\$ 0
FY 2021(6 months)	\$26,259	\$14,139	\$40,398
FY 2027(fully implemented)	\$52,687	\$28,370	\$81,057

Officials at the **Office of the State Courts Administrator (OSCA)** assume the proposed legislation requires children under the age of 18 to be prosecuted for most criminal offenses in juvenile courts unless the child is certified as an adult. While it is not possible to quantify the impact of this change exactly, it would be significant. It would cause a significant workload and fiscal impact on the courts. It is anticipated there would be approximately 1,687 additional juvenile law violations and 2,176 status violations annually in the 34 multi-county circuits, 38th and 46th circuits.

Based upon projected additional violations in the 34 multi-county circuits, 38th and 46th circuits, the FY18 estimated juvenile personnel cost in these circuits would be \$2,306,227 (34 juvenile officer FTE). In addition, there would be added training cost for all new juvenile officer staff of \$192,184 and program cost for multi county circuits of \$1,352,050. The total cost would be \$3,850,461.

Below is a breakdown of the costs:

Multi Circuits*

	FTE	Salary	Total	Fringes	Total
Juvenile Officer	34	\$44,352	\$1,507,968	\$798,259	<u>\$ 2,306,227</u>
				Total	\$ 2,306,227
Training for all new juvenile officer staff					\$ 192,184
Program Cost for multi county circuit ((\$350 per juvenile (3,863*\$350))					<u>\$ 1,352,050</u>
Total Cost					\$ 3,850,461

* Note: The 34 multi-county, 38th and 46th circuits are state paid.

ASSUMPTION (continued)

Single County Circuits

State general revenue would need to be appropriated for the ten single county circuits' juvenile personnel, training and program cost. Eight of the ten single county circuits have submitted their estimated cost increases to implement the proposed legislation. Based on their submissions, the total cost for the ten single county circuits would be at least \$10,187,476.

The total cost to state general revenue to implement the proposed legislation would be at least (\$3,850,461 + \$10,187,476) **\$14,037,937**.

The projected number of status offenders may vary depending on the number of children reported as truant from school and whether 17 year olds are included in the truancy numbers.

Oversight assumes that once state appropriations are approved to OSCA for the Single County Circuits, OSCA will reimburse the circuits for court costs. Oversight has shown this netting to zero under local government since the Single County Circuits will have cost.

Oversight also assumes the single county circuits may have additional costs from this proposal that would not be reimbursed by OSCA, but by the county. Two of the ten single county circuits have submitted their estimated cost increases to implement the proposed legislation. Based on their submissions, the total cost for the ten single county circuits would be at least \$4,969,277. These annual costs are broken down as follows:

	<u>Circuit 11</u> <u>St. Charles County</u>	<u>Circuit 21</u> <u>St. Louis County</u>
Detention Center Salaries	\$ 788,086	\$ 0
Court Services Salaries	\$2,882,963	\$ 0
Referrals (no petition filed)	\$ 1,478	\$ 0
Institutional Care	\$ 0	\$ 296,750
Building Space	\$ 0	\$1,000,000
Total	\$3,672,527	\$1,296,750

Oversight is unsure what portion of these expenses are considered reimbursable by the state and is included in OSCA's estimate of \$10,187,476 of additional state reimbursement to single circuit counties above. Therefore, Oversight will reflect an unknown cost to counties for expenses not reimbursed by OSCA.

In response to a previous version, officials at the **Office of Administration's Administrative Hearing Commission** and the **Office of the State Public Defender** each assumed no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

§§211.435

Officials at the **Office of the State Courts Administrator** assume there were 238,722 traffic violations disposed in FY17. Collection rates are between 75% and 90%. Based on those percentages, the estimated revenue from a \$2.00 fee would be between \$358,083 and \$429,700. There were 698,816 municipal traffic cases disposed in FY17. Based on the above percentages, the estimated revenue from municipal traffic cases would be between \$1,048,224 and \$1,257,869. In addition, there would be unknown county ordinance violation revenue between \$0 and \$100,000.

Oversight notes that section 211.435 will expire on August 28, 2024 (FY 2025). Therefore, Oversight will reflect a \$0 fiscal impact to the Juvenile Justice Preservation Fund in FY 2027 in the table below.

§§475.050 & 475.075

Officials at the **Department of Social Services** assume the following:

CD

The Children's Division, through DLS pursues the appointment of an adult guardian on behalf of children who will be accessing Department of Mental Health services after being released from our custody. No fiscal impact to CD.

FSD

This bill requires the court to determine if an individual's choice of guardian is deficient. It does not affect any provisions relating to eligibility for any programs FSD administers. Therefore, there is no fiscal impact to FSD.

DLS

DLS provides legal counsel and representation of the Children's Division. In cases in which a child is ageing out of care and is incapacitated or disabled, DLS handles court proceedings to ensure the child is given a guardianship and a conservatorship, if needed.

In 2016, DLS handled 206 guardianships. The cost of publication for each case would be approximately \$300. This means the total cost of publication would be approximately \$61,800. In 2017, DLS handled 82 guardianships; the total cost of publication would be approximately \$24,600.

ASSUMPTION (continued)

In summary, the DSS would have the following cost range, split between GR and Federal:

FY19 - \$20,500 to \$51,500 (10 months)

FY20 - \$24,600 to \$61,800

FY21 - \$24,600 to \$61,800

Oversight inquired of the DSS. The DSS does not budget for publication costs currently because it was not required. This proposal would require the DSS to publish each case.

Officials at the **Department of Mental Health** estimates that approximately 100 guardianship petitions will be initiated annually beginning in 2018. It is estimated that a guardianship petition, on average, involves five or more individuals who are required to be notified. Notices for guardianship is currently provided by regular mail with prepaid postage - estimated current cost is \$250 (100 cases X \$.50 stamp X 5 notifications). This bill changes how notice must be made to relevant persons in a guardian or conservator petition, providing that service must be made by certified mail, addressed to the person to be notified, with all postage charges prepaid, and return receipt requested. The requirements of this legislation would increase notification costs to \$3,350 (100 cases X \$6.70 estimated mail expenses X 5 notifications) - an increase of \$3,100. (an increase of \$6.20 per case)

Requirements contained in this bill would also necessitate that a notice be published in a newspaper having general circulation within the county in which the court is held. The eastern region of Missouri covers the bulk of total guardianships, so a fair estimate may be based upon publication in the St. Louis Post Dispatch. Basic publishing of a notice cost \$562. Notices for 100 cases at \$562 totals \$56,200.

The county surcharge of \$3.50 for civil actions filed would amount to \$350.00 (100 X \$3.50).

The net fiscal impact to the Department of Mental Health resulting from this legislation is estimated at \$59,650 (\$49,708 in FY19, \$61,142 in FY20 and \$62,670 in FY21). This estimate also assumes postage rates will increase each fiscal year.

Oversight inquired of the DMH on the number of petitions that were done in FY2015 through FY2017. The following is their response:

FY15 - 95 petitions

FY16 - 83 petitions

FY17 - 95 petitions

ASSUMPTION (continued)

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

§488.315

Officials at the **Office of the State Courts Administrator** assume there were 320,269 civil cases filed in FY17. Collection rates for civil cases are between 75% and 90%. Based on those percentages, the estimated revenue from a \$3.50 fee would be between \$840,706 and \$1,008,847.

Oversight notes that section 488.315 will expire on August 28, 2024 (FY 2025). Therefore, Oversight will reflect a \$0 fiscal impact to the Juvenile Justice Preservation Fund in FY 2027 in the table below.

§558.003

Officials at the **Office of the State Courts Administrator** assume this section gives the prosecuting attorney the discretion to charge a fine of up to \$500 on offenses in which the victim is a child. Since this is permissive, we are unable to determine the amount that may be collected.

Bill as a Whole

Officials at the **Department of Public Safety's Office of the Director**, the **Office of Prosecution Services**, the **Department of Health and Senior Services**, the **Office of the State Treasurer** and the **Office of Administration's Facilities Management, Design and Construction** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

FISCAL IMPACT -
State Government

	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2027)
GENERAL REVENUE				
<u>Savings - DOC - p. 7</u> cost avoidance /reduction in prison population requiring supervision (§§211.021 to 221.044)	\$0	\$0	\$380,947	\$3,826,103
<u>Cost - DSS (§§211.021 to 221.044) p. 14</u>				
Personal Service	\$0	\$0	(\$13,638)	(\$28,955)
Fringe Benefits	\$0	\$0	(\$7,557)	(\$15,612)
Equipment/Expense	<u>\$0</u>	<u>\$0</u>	<u>(\$5,064)</u>	<u>(\$8,120)</u>
<u>Total Cost - DSS</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$26,259)</u>	<u>(\$52,687)</u>
FTE Change - DSS	0 FTE	0 FTE	.65 FTE	.65 FTE
<u>Costs - OSCA p. 14-15</u> (§§211.021 to 221.044)				
Personal Service	\$0	\$0	(\$753,984)	(\$1,507,968)
Fringe Benefits	\$0	\$0	(\$399,130)	(\$798,259)
Equipment/Expense	\$0	\$0	(\$772,117)	(\$1,544,234)
Single County Cost	<u>\$0</u>	<u>\$0</u>	<u>(\$5,093,738)</u>	<u>(\$10,187,476)</u>
<u>Total Costs - OSCA</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$7,018,969)</u>	<u>(\$14,037,937)</u>
FTE Change - OSCA	0 FTE	0 FTE	34 FTE	34 FTE
<u>Cost - DSS - p. 16-17</u> Publication of each guardianship case (§§475.050 & 475.075)	(\$8,200 to \$20,600)	(\$9,840 to \$24,720)	(\$9,840 to \$24,720)	(\$9,840 to \$24,720)
<u>Costs - DMH - p. 17-18</u> Publication of guardianship petitions in local newspapers (§§475.050 & 475.075)	(Up to <u>\$49,708</u>)	(Up to <u>\$61,142</u>)	(Up to <u>\$62,670</u>)	(Up to <u>\$72,678</u>)

FISCAL IMPACT -
State Government

	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2027)
ESTIMATED NET EFFECT ON GENERAL REVENUE	(\$57,908 to <u>\$70,308</u>)	(\$70,982 to <u>\$85,862</u>)	(\$6,736,791 to <u>\$6,751,671</u>)	(\$10,347,039 to <u>\$10,361,919</u>)
Estimated Net FTE Change for General Revenue Fund	0 FTE	0 FTE	34.65 FTE	34.65 FTE

**JUVENILE JUSTICE
PRESERVATION
FUND**

Income - additional
\$2.00 fee collected on
traffic violations
(211.435) p. 16

\$1,406,307 to \$1,687,569	\$1,406,307 to \$1,687,569	\$1,406,307 to \$1,687,569	\$0
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Income - p. 18
additional \$3.50 fee
collected on civil cases
(\$488.315)

\$840,706 to \$1,008,847	\$840,706 to \$1,008,847	\$840,706 to \$1,008,847	\$0
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Income - discretionary
\$500 fine for offenses
in which the victim is a
child p. 18

\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>	<u>\$0</u>
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**ESTIMATED NET
EFFECT ON THE
JUVENILE JUSTICE
PRESERVATION
FUND**

Could exceed \$2,247,013 to <u>\$2,696,416</u>	Could exceed \$2,247,013 to <u>\$2,696,416</u>	Could exceed \$2,247,013 to <u>\$2,696,416</u>	<u>\$0</u>
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FISCAL IMPACT -
State Government

	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2027)
FEDERAL FUNDS				
<u>Income - DSS</u>				
Increase in program reimbursements (§§211.021 to 221.044)	\$0	\$0	\$14,139	\$28,369
<u>Income - DSS - program</u>				
reimbursements (§§475.050 & 475.075)	\$12,300 to \$30,900	\$14,760 to \$37,080	\$14,760 to \$37,080	\$14,760 to \$37,080
<u>Cost - DSS (§§211.021 to 221.044)</u>				
Personal Service	\$0	\$0	(\$7,344)	(\$15,591)
Fringe Benefits	\$0	\$0	(\$4,069)	(\$8,406)
Equipment/Expense	<u>\$0</u>	<u>\$0</u>	<u>(\$2,726)</u>	<u>(\$4,372)</u>
<u>Total Cost - DSS</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$14,139)</u>	<u>(\$28,369)</u>
FTE Change DSS	0 FTE	0 FTE	.35 FTE	.35 FTE
<u>Cost - DSS - Publication of each guardianship case (§§475.050 & 475.075)</u>	(\$12,300 to <u>\$30,900</u>)	(\$14,760 to <u>\$37,080</u>)	(\$14,760 to <u>\$37,080</u>)	(\$14,760 to <u>\$37,080</u>)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change for Federal Funds	0 FTE	0 FTE	.35 FTE	.35 FTE

FISCAL IMPACT -
Local Government

	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2027)
COUNTY FUNDS				
<u>Revenue</u> - from county ordinance violations (§§211.435 and 488.315)	\$0 to \$100,000	\$0 to \$100,000	\$0 to \$100,000	\$0
<u>Transfer Out</u> - reimbursement of court costs (§§211.021 to 221.044)	<u>\$0</u>	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON COUNTY FUNDS	<u>\$0 to \$100,000</u>	<u>\$0 to \$100,000</u>	<u>Less than \$100,000</u>	<u>(Unknown)</u>

FISCAL IMPACT -
 Local Government

	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2027)
SINGLE COUNTY CIRCUITS FUNDS				
<u>Transfer In</u> - from OSCA - reimbursement of court costs (§§211.021 to 221.044)	\$0	\$0	\$5,093,738	\$10,187,476
<u>Costs</u> - court cost (§§211.021 to 221.044)	\$0	\$0	(\$5,093,738)	(\$10,187,476)
<u>Transfer In</u> - from counties - reimbursement of court costs (§§211.021 to 221.044)	\$0	\$0	Unknown	Unknown
<u>Costs</u> - court cost (§§211.021 to 221.044)	<u>\$0</u>	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT OF SINGLE COUNTY CIRCUIT FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

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 the age in which a child can be prosecuted in the juvenile court system and modifies procedures in guardianship and conservatorship proceedings.

PROSECUTION IN THE JUVENILE COURT SYSTEM (211.021 - 221.044, 488.315, 558.003)

Under current law, children who are 17 years of age are prosecuted for criminal offenses in courts of general jurisdiction. This act provides that, unless the child is certified as an adult or is being prosecuted for a traffic or curfew violation, children who are 17 years of age must be prosecuted in the juvenile court system.

This act repeals a provision of current law making certain amendments to definitions relating to juvenile courts effective upon appropriations by the General Assembly for juvenile officers.

Under current law, children between the ages of 12 and 17 who are alleged to have committed certain offenses can be prosecuted in a court of general jurisdiction rather than in juvenile court. Under this act, this age range is changed to a range between 12 and 18 years.

Current law allows offenders who are under 17 and a half years of age and have been certified as adults to be eligible for dual jurisdiction of both the juvenile and adult criminal codes. Dual jurisdiction allows an offender who has been found guilty in an adult court to complete a juvenile sentence in a Division of Youth Services facility. This act provides that offenders under the age of 18 are eligible for the program.

Under this act, no person under the age of 18 may be detained in an adult jail, unless the person has been certified as an adult.

The act creates the Juvenile Justice Preservation Fund, which shall consist of the following surcharges and fines as established in the act: a \$2 court surcharge collected in traffic violation cases, a \$3.50 surcharge collected in civil actions, and up to a \$5 fine charged in criminal cases where the victim was a child.

These provisions are effective on January 1, 2021.

GUARDIANSHIP AND CONSERVATOR PROCEEDINGS (475.050, 475.075)

This act provides that in guardianship and conservator proceedings, a court must determine that the incapacitated or disabled person's choice, spouse, or family member is deficient in his or her ability to serve prior to selecting a third person as a guardian of the incapacitated person or conservator of a disabled person. If there is a claim that a person is deficient because of the living conditions, then the court shall require an investigation by the Department of Health and Senior Services of the living conditions. A court must also make a determination that the living

FISCAL DESCRIPTION (continued)

conditions are dangerous or unsanitary prior to making the finding that a person is deficient for the purposes of guardianship.

The act also states that, prior to a hearing on a petition for the appointment of a guardian or conservator, notice must be provided to certain parties by certified mail and published in a newspaper of general circulation in the county in which the hearing is held

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

Department of Corrections
Department of Social Services
Office of the State Courts Administrator
Department of Health and Senior Services
Department of Mental Health
Department of Public Safety
 Office of the Director
Office of Administration
 Facilities Management, Design and Construction
 Administrative Hearing Commission
Office of the State Public Defender
Office of Prosecution Services
Office of the State Treasurer
Office of the Attorney General

Ross Strope



Acting Director
April 24, 2018