

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5456-03
Bill No.: HCS for SB 796
Subject: Health Care Professionals; Psychologists; Professional Registration and Licensing; Drugs and Controlled Substances; Department of Health and Senior Services; Pharmacy; Nurses; Physicians; Entertainment, Sports and Amusements; Boards, Commissions, Committees and Councils
Type: Original
Date: May 8, 2018

Bill Summary: This proposal modifies provisions relating to the licensure of professionals.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	\$72,000	\$72,000	\$72,000
Total Estimated Net Effect on General Revenue	\$72,000	\$72,000	\$72,000

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Criminal Records Fund	\$30,600	\$30,600	\$30,600
Professional Registration Administration*	\$0	\$0	\$0
State Committee of Psychologists	\$0	\$0	\$0 or Less than \$47,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$30,000	\$30,000	\$0 or Less than \$77,600

*Transfers-in and Costs net to \$0.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
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 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§190.142 - State Advisory Council on Emergency Medical Services

Officials from the **Department of Health and Senior Service (DHSS)** stated Section 190.142.1(2) explicitly addresses "initial licensure". However, the subparagraph also states, "Any fees due for a criminal background check shall be paid by the applicant." Therefore, DHSS interprets the language to require applicants for Emergency Medical Services (EMS) licenses to pay for the cost of background checks for both initial licensure and all subsequent license renewals.

DHSS would no longer need to pay for criminal background checks for all applicants. Currently, the EMS conducts criminal background checks for all applicants through the Missouri State Highway Patrol (MSHP). In FY 2017, EMS expended approximately \$72,000 on background screenings. Based on the expenditures from 2017, there would be a positive impact to general revenue in the amount of \$72,000.

Section 334.1503.3(4)

Pursuant to Chapter 190.142.1, RSMo, the EMS conducts criminal records checks for all applicants through the MSHP. DHSS assumes there will not be a significant increase in the number of background checks; therefore, current staff will be able to accommodate these.

Section 334.1518.6

This provision expands the EMS investigative authority to include investigations conducted out of state. While the variables of what activity constitutes "reported conduct" and what level of responsibility the investigative authorities in the remote state will have, DHSS assumes there will not be a significant increase in the number of investigations conducted out of state; therefore, these activities will be accomplished with current staff and funding.

Section 334.1521(1)

The number of subpoenas issued under this section is unknown. DHSS assumes there will not be a significant number of subpoenas for attendance and testimony of witnesses or the production of evidence; therefore, these activities will be accomplished with current staff and funding.

Section 334.1524.5(3)

DHSS assumes the commission will receive sufficient revenue through other sources so an annual assessment will not be imposed on the state of Missouri.

ASSUMPTION (continued)

Oversight notes that DHSS' response to this bill is quite different from previous years' (i.e. HB 100 in 2017). DHSS noted that there is more data on the compact now and other states have indicated that only some minimal travel costs should be anticipated and that there has been no influx of new applicants in the other states.

In response to a similar proposal from this year (HB 1662), officials from the **Department of Public Safety (DPS), Missouri State Highway Patrol (MHP)** provided the following assumptions:

§334.1503.2(4) - Background checks

During 2017, the Department of Health and Senior Services conducted approximately 3,400 name-based criminal record checks for Emergency Medical Technician (EMT) licensing. This number accurately reflects the number of emergency medical personnel that would be required to obtain a state and federal fingerprint-based criminal record check with the passage of this legislation. This requirement would take effect no later than five (5) years after approval of the Emergency Medical Services Compact. For purposes of this fiscal note, the MHP assumes this legislation will take effect August 28, 2018.

The cost for a fingerprint-based background check to include state and federal open and closed records is as follows:

State fee: \$20

FBI fee: \$12 (\$2 of the federal fee is retained by the Central Repository as a pass-through fee)

Total: \$32

3,400 applicants annually X \$32 = \$108,800

State fee portion deposited in the Criminal Records Fund = 3,400 X \$20 = \$68,000

Federal pass through fee retained by Central Repository = 3,400 X \$2 = \$6,800

Total \$74,800

The funds currently generated as a result of the name-based checks is 3,400 X \$13 = \$44,200. Therefore, the total increase in revenue deposited in the Criminal Record System Fund (new fingerprint background check cost + federal pass through fee - existing cost of name-based check is \$30,600 (\$74,800 - \$44,200).

Oversight notes that the Recognition of EMS Personnel Licensure Interstate Compact (REPLICA) has been passed by 12 states and is now active.

ASSUMPTION (continued)

Oversight also notes that section 334.1503.3(4) provides that “no later than five years after activation of the compact” that criminal background checks of all applicants for initial licensure must be compliant with the requirements of the FBI. DHSS may implement the fingerprint provisions anytime within 5 years of passage of the compact. However, based on DHSS’ response regarding savings of \$72,000 annually as a result of no longer having to pay for background check fees, **Oversight** assumes DHSS would implement the provisions of this proposal upon passage of the bill. Therefore, savings to the General Revenue Fund for DHSS no longer paying for background checks and fingerprint income into the Criminal Records Fund are assumed to begin in FY19.

§§337.100 - 337.165 - Psychology Interjurisdictional Compact

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state the compact will be effective when it is enacted into law in the seventh member state. Currently, three states have enacted the compact and only two states (including Missouri) have legislation pending to enact the compact. It is not anticipated the compact would be enacted during FY19, FY20, or FY21 and, as a result, will have no fiscal impact to the DIFP during these fiscal years.

Once the compact is enacted, the DIFP, Division of Professional Registration would have the following fiscal impact: \$3,000 to \$6,000 annual fee to participate in the compact and revenue of \$200 for each Interjurisdictional Practice Certificate.

Oversight notes that 3 states (AZ, NV, and UT) have enacted the compact and one state (IL) has pending legislation besides Missouri. Oversight assumes the earliest the proposal could be enacted would be FY21 since two states enacted the compact in 2017. However, since the compact will only become effective when the seventh state becomes a member, revenues and costs will be ranged as \$0 or... since it is unknown when the seventh state will become a member.

Oversight notes, based on discussions with DIFP officials, that the original compact fee would be paid from the Professional Registration Administration Fund (#0689) and then the fund would be reimbursed from the State Committee of Psychologists Fund (#0580). It would take 250 Interjurisdictional Practice Certificates to be issued to psychologists from compact member states for the potential income to reach \$50,000 (250 X \$200/certificate). Oversight assumes potential revenues will be less than \$50,000 annually if the compact is adopted by 7 member states and at least some are states that border Missouri.

ASSUMPTION (continued)

In response to a previous version, officials from the **Office of the Secretary of State (SOS)** assumed 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 fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Department of Revenue** assume this proposal may have an unknown positive impact.

Officials from the **Attorney General's Office (AGO)** assume any potential cost arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if the proposal results in a significant increase in cases.

Officials from the **Department of Mental Health**, the **Department of Corrections**, the **Office of the State Treasurer**, the **Office of the State Courts Administrator**, the **Administrative Hearing Commission**, the **Missouri Senate**, the **Department of Elementary and Secondary Education** and the **Department of Social Services** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Office of the Governor**, **University of Central Missouri**, **Missouri State University**, **State Technical College of Missouri** and **Missouri Western State University** each assumed the proposal will have no fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE			
<u>Savings - DHSS (§190.142.1(2))</u>			
Reduction in background check fees paid	<u>\$72,000</u>	<u>\$72,000</u>	<u>\$72,000</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$72,000</u>	<u>\$72,000</u>	<u>\$72,000</u>
CRIMINAL RECORDS FUND			
<u>Income - DPS (§334.1503.2(4))</u>			
Increase in background check fees	<u>\$30,600</u>	<u>\$30,600</u>	<u>\$30,600</u>
ESTIMATED NET EFFECT ON THE CRIMINAL RECORDS FUND	<u>\$30,600</u>	<u>\$30,600</u>	<u>\$30,600</u>
PROFESSIONAL REGISTRATION ADMINISTRATION FUND (#689)			
<u>Transfer-in - from State Committee of Psychologists Fund (#580) (§§337.100 - 337.165)</u>	\$0	\$0	\$0 or \$3,000 to \$6,000
<u>Costs - DIFP (§§337.100 - 337.165)</u>			
Interstate compact fee	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (\$3,000 to \$6,000)</u>
ESTIMATED NET EFFECT ON THE PROFESSIONAL REGISTRATION ADMINISTRATION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - State Government
 (continued)

FY 2019
 (10 Mo.)

FY 2020

FY 2021

**STATE COMMITTEE OF
 PSYCHOLOGISTS FUND (#580)**

Income - DIFP (§§337.100 - 337.165)

Practice certificates issued to compact
 state practitioners

\$0

\$0

\$0 or Less than
 \$50,000

Transfer-out - to Professional
 Registration Administration Fund
 (#689)(§§337.100 - 337.165)

Interstate compact fee

\$0

\$0

\$0 or (\$3,000 to
\$6,000)

**ESTIMATED NET EFFECT ON THE
 STATE COMMITTEE OF
 PSYCHOLOGISTS FUND**

\$0

\$0

**\$0 or Less than
\$47,000**

FISCAL IMPACT - Local Government

FY 2019
 (10 Mo.)

FY 2020

FY 2021

\$0

\$0

\$0

FISCAL IMPACT - Small Business

This proposal could impact small business practitioners if they choose to obtain a certificate to practice in a compact member state.

FISCAL DESCRIPTION

This act provides that a doctoral degree in psychology from a program accredited, or provisionally accredited, by the Psychological Clinical Science Accreditation System is acceptable to meet various requirements for licensure as a psychologist if the degree program meets certain requirements as set forth in the act.

FISCAL DESCRIPTION (continued)

Any health care professional in the state may annually complete training in the areas of suicide assessment, referral, treatment, and management, which may qualify as part of the continuing education requirements for licensure as a health care professional.

Psychologists are required to complete two hours of such training as a condition of initial licensure. The act also requires behavior analysts, professional counselors, social workers, baccalaureate social workers, and marital and family therapists to complete two hours of suicide assessment, referral, treatment, and management training as a condition of initial licensure and as a condition of license renewal. The training shall count toward any continuing education required for such license.

This act establishes a new psychology interjurisdictional compact for the practice of telepsychology. The compact does not apply to permanent in-person practice, but regulates the temporary practice of psychology and the day to day practice of telepsychology. Telepsychology is defined in the compact as the provision of psychological services using telecommunication technologies.

Psychologists licensed in a compact state, also known as the home state, are allowed to practice telepsychology into other compact states, referred to as receiving states, where the psychologist is not licensed under an authority to practice interjurisdictional telepsychology. In order to obtain this authority the psychologist must: 1) Meet certain education requirements; 2) Possess a current license to practice psychology from a compact state; 3) Have no history of adverse action against his or her license and no criminal record in violation of Psychology Interjurisdictional Compact Commission rules; 4) Possess a current E. Passport, as defined in the compact; 5) Attest to conformity with standards of practice and competence in telepsychology technology, and knowledge of legal requirements in home and receiving states; and 6) Meet any other criteria as required by the Commission and defined by rule.

The home state maintains authority over the license of the psychologist practicing telepsychology into a receiving state, but the psychologist is subject to the receiving state's scope of practice requirements. The receiving state may limit or revoke a psychologist's authority to practice interjurisdictional telepsychology into the receiving state.

A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in performance of the scope of practice for psychology as assigned by a state psychology regulatory authority and when the psychologist initiates patient contact from a home state via telecommunications technologies with a patient in the receiving state and in accordance with rules promulgated by the Commission.

FISCAL DESCRIPTION (continued)

A psychologist licensed in a compact state may also practice temporarily in other compact states where the psychologist is not licensed, referred to in the compact as distant states. In order to obtain temporary authorization to practice a psychologist must: 1) Meet certain education requirements; 2) Possess a current license to practice psychology from a compact state; 3) Have no history of adverse action against his or her license and no criminal record in violation of Commission rules; 4) Possess a current interjurisdictional practice certificate (IPC); 5) Attest to intended areas of practice and work experience; and 6) Meet any other criteria as required by the Commission and defined by rule.

The psychologist practicing under a temporary authorization to practice must practice within the scope of practice as authorized by the distant state. The psychologist is subject to the distant state's laws, and the distant state may limit or revoke the psychologist's temporary authorization to practice in the distant state.

When a home state takes adverse action against a psychologist's license the psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is terminated and his or her E. Passport or IPC is revoked. A compact state must report actions against a licensee to the Commission. When a complaint is filed against a licensee for conduct occurring in a receiving state, the licensee's home state psychology regulatory authority must investigate and take appropriate action as if the conduct had occurred within the home state. In such cases the home state's law shall be used to determine any adverse action against the psychologist's license.

When a psychologist's conduct is reported who is practicing under a temporary authorization practice and such conduct occurred in a distant state, then the distant state's psychology regulatory authority shall investigate and take appropriate action. In these types of cases the distant state's law shall control in determining any adverse action against a psychologist's temporary authorization to practice.

The compact allows compact state psychology regulatory authorities to issue subpoenas and cease and desist orders in order to revoke a psychologist's authority to practice interjurisdictional telepsychology and temporary authorization to practice.

A psychologist may not change his or her home state licensure during any investigation. Once an investigation is completed, the home state shall report the conclusions of the investigation to the Commission and the psychologist may then change his or her home state licensure. All information provided to the Commission by a compact state shall be confidential.

FISCAL DESCRIPTION (continued)

The Commission must develop and maintain a coordinated licensure information system or coordinated database, which contains licensure and disciplinary action information on all psychologists practicing under the compact. Compact states must submit a uniform data set to the coordinated database on all licensees which includes information as provided in the compact such as identifying information and any adverse actions taken against the licensee. Compact states may designate information that may not be shared with the public without express permission from the compact state reporting the information.

The compact creates the Psychology Interjurisdictional Compact Commission. Each compact state's psychology regulatory authority shall appoint one delegate to serve as a commissioner. The delegate will have the authority to act on behalf of the compact state. The Commission must meet once a year and all meetings are open to the public. The Commission may close a meeting to discuss certain matters as established in the compact. All documents of a closed meeting will remain closed unless a majority of the commissioners vote to release such records or upon court order.

The Commission may collect an annual fee from each compact state to cover the cost of operations. All receipts and disbursements of funds handled by the Commission shall be audited yearly.

The government of each compact state must enforce the compact and take all actions necessary to effectuate the compact's purposes and intent.

The compact provides procedures the Commission is to follow when a compact state defaults in required performance of its obligations or responsibilities under the compact or promulgated rules. A compact state shall only be terminated from the compact after all other means of securing compliance have been exhausted. A compact state may withdraw from the compact by repealing the compact statutes.

The compact shall go into effect after seven states have enacted the compact legislation.

This bill also authorizes Missouri to become a member state of the Recognition of EMS Personnel Licensure Interstate Compact and to adopt the provisions of authorization as specified in the bill.

The purpose of the compact is to facilitate the exchange of information between members states regarding EMS personnel licensure, adverse actions, and significant investigatory information.

FISCAL DESCRIPTION (continued)

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 Insurance, Financial Institutions and Professional Registration
Department of Higher Education
Department of Social Services
Department of Health and Senior Services
Department of Mental Health
Department of Elementary and Secondary Education
Office of Attorney General
Department of Corrections
Office of the Governor
Missouri Senate
Administrative Hearing Commission
Office of the State Treasurer
Office of the Secretary of State
Office of State Courts Administrator
University of Central Missouri
Missouri State University
State Technical College of Missouri
Missouri Western State University

Ross Strobe



Acting Director
May 8, 2018