

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0962-08
Bill No.: CCS for SS for SCS for HCS for HB 397
Subject: Crimes and Punishment; Criminal Procedure; Courts; Juvenile Courts; Children and Minors; Children’s Division; Sexual Offenses; Domestic Relations; Victims of Crime; Civil Penalties
Type: Original
Date: May 10, 2019

Bill Summary: This proposal modifies provisions regarding the protection of children.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|---|---|---|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| General Revenue | Unknown to Could exceed (\$328,192 to \$396,788) | Unknown to Could exceed (\$167,694 to \$301,739) | Unknown to Could exceed (\$169,227 to \$304,782) |
| Total Estimated Net Effect on General Revenue | Unknown to Could exceed (\$328,192 to \$396,788) | Unknown to Could exceed (\$167,694 to \$301,739) | Unknown to Could exceed (\$169,227 to \$304,782) |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 26 pages.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| Family Child Care Provider* | \$0 | \$0 | \$0 |
| Child Support Enforcement Collections (0169) | \$0 | \$0 | \$0 |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

* Appropriations and expenses assumed to net to \$0.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|-----------------------------|-----------------------------|-----------------------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| Federal | \$0 or \$269,698,605 | \$0 or \$269,698,605 | \$0 or \$269,698,605 |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 or \$269,698,605 | \$0 or \$269,698,605 | \$0 or \$269,698,605 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|-------------------------------------|-------------------------------------|-------------------------------------|
| FUND AFFECTED | FY 2020 | FY 2021 | FY 2022 |
| General Revenue | Unknown to (Unknown) FTE | Unknown to (Unknown) FTE | Unknown to (Unknown) FTE |
| Federal | 0 or 0.34 FTE | 0 FTE | 0 FTE |
| Total Estimated Net Effect on FTE | Unknown to (Unknown) FTE | Unknown to (Unknown) FTE | Unknown to (Unknown) 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 2020 | FY 2021 | FY 2022 |
| Local Government | \$0 or Under \$100,000 | \$0 or Under \$100,000 | \$0 or Under \$100,000 |

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints of less than 24 hours, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented his fiscal note on the best current information that we have or on information regarding similar bills. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§191.250 - Simon's Law

In response to a similar proposal (SB 406), **Oversight** notes that the **Department of Health and Senior Services, Department of Social Services and Office of State Courts Administrator** have each stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

In response to similar legislation (HB 138), officials from the **Cass Regional Medical Center** assumed the proposal would have no fiscal impact on their organization.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for Cass Regional Medical Center.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other hospitals were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

§208.151 - MO HealthNet benefits for persons in foster care

In response to a similar proposal (SB 514), officials from the **Department of Social Services (DSS), MO HealthNet Division (MHD)** stated §208.151.1(26) is amended to allow persons who were in foster care under the responsibility of another state for at least six months, are currently residing in Missouri, are at least eighteen years of age, are not eligible for coverage under another mandatory coverage group, and were covered by Medicaid while they were in foster care to also be eligible to receive MO HealthNet benefits.

Section 1902 (a)(10)(i)(IX) of the Social Security Act requires states to make medical assistance available to individuals who were in foster care under the responsibility of the State on the date

ASSUMPTION (continued)

of attaining eighteen years of age until the individual turns twenty-six years of age. However, the federal law does not require states to make medical assistance available to individuals who were in foster care under the responsibility of another state.

States have the option to apply for an 1115 demonstration waiver under 42 CFR 435.150 to provide medical assistance to former foster care youth who aged out in another state and were enrolled in Medicaid in another state at any time during the period of foster care.

In State Fiscal Year (SFY) 2018, there were 25 children, that were age 18 or older and placed in foster care in Missouri who were under the responsibility of another state for at least six months. For the purpose of this bill, the Family Support Division (FSD) is estimating that this is the number of children that would be eligible for this coverage per year. It is assumed that these individuals are eligible for a federally matched Medicaid program, under an 1115 demonstration waiver.

Because an 1115 waiver is required to implement the provisions of this bill, the DSS would have to apply for and be approved in order to receive a federal match on these individuals. Due to the amount of time estimated to apply and be approved for the waiver, the earliest this legislation could be implemented is expected to be January 1, 2020.

The FSD assumes existing staff will be able to complete necessary additional work as a result of this proposal.

The FSD assumes Office of Administration, Information Technology Services Division (OA - ITSD) will include the system programming costs for the system changes necessary to implement provisions of this bill.

The Children's Division (CD) and FSD defer to MO HealthNet Division for costs to the program; therefore, there is no fiscal impact to the CD or to the FSD.

Oversight does not have any information to the contrary. Oversight assumes the CD and FSD have sufficient staff and resources to handle any increase in workload required under the provisions of this proposal and will reflect no fiscal impact for these divisions for fiscal note purposes.

MHD officials state per the new parameters of this legislation, the CD reports that a total of 25 children in FY 2018 were 18 or older and are currently residing in Missouri that had been under the responsibility of another state for at least 6 months. MO HealthNet Division found that a per

ASSUMPTION (continued)

member per month (PMPM) rate for foster care services is \$604.11. Therefore, an annual cost for this new legislation is estimated to be \$181,233 (25 newly eligible*\$604.11 PMPM*12 months). A 2.4% inflation rate was used for FY21 and FY22.

FY20 (6 mos): Total: \$90,617 (GR \$31,183; FF \$59,434);
FY21: Total: \$185,583 (GR \$63,863; FF \$121,720; and,
FY22: Total: \$190,037 (GR \$65,396; FF \$124,641).

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by DSS, MHD for fiscal note purposes.

Officials from the **Office of Administration, Information Technology Services Division (OA, ITSD)/DSS** state system modifications will be required for the Missouri Eligibility Determination and Enrollment System (MEDES). System modifications will be executed via a Project Assessment Quotation under the existing Redmane contract (CT 170849002) for MEDES Maintenance and Operations as an enhancement. It is assumed the system modifications will require 4,043.52 IT consultant contract hours at \$160 per hour for a total cost of \$646,963 (\$161,741 GR; \$485,222 Federal funds) in FY 2020.

In addition, it is assumed the Family and Children Electronic Services (FACES) system will require modifications. IT consultants are estimated to require 648.00 hours at \$75/hours to do the necessary modifications for a total of \$48,600 (\$32,076 General Revenue (GR); \$16,524 Federal Funds) in FY 2020.

It is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity. Contracted IT consultant hours are estimated at a rate of \$75 per hour.

Oversight notes, based on information from OA, ITSD officials that changes to FACES are made using a mix of ITSD staff and a contractor. Generally changes are contracted out, especially if there are significant changes.

Oversight also notes ITSD assumes that every new IT project/system will be bid out because all their resources are at full capacity. For this proposal, ITSD assumes system changes will need to be made to the MEDES and FACES systems. The state has a contract with Redmane to perform system changes/enhancements to MEDES. However, since changes to FACES are made using a mix of ITSD staff and a contractor, Oversight assumes ITSD staff could make the required changes to FACES.

ASSUMPTION (continued)

ITSD estimates the FACES project would take 648.00 hours at a contract rate of \$75 per hour for a total cost to the state of \$48,600 (\$32,076 GR; \$16,524 Federal funds). Oversight notes that an average salary for a current IT Specialist within ITSD is \$51,618, which totals roughly \$80,000 per year when fringe benefits are added. Assuming all ITSD resources are at full capacity, Oversight assumes ITSD may (instead of contracting out the programming) hire additional IT Specialists to perform the work required by this proposal. Therefore, Oversight will range the fiscal impact from the cost of contracting out the work for FACES updates (\$48,600 in FY 2020) to hiring 1 ($\$48,600 / \$75 / 2,080 \text{ hours} = 0.31$ rounded up) additional FTE IT Specialists (roughly \$80,000 per year) to complete the FACES system changes in approximately the same time as contract IT consultants. For FY 2021 and 2022, Oversight cannot assume FTE costs would be split between GR and Federal funds and will present costs as 100% GR.

§§208.044, 210.025, 210.201, 210.211, 210.245, 210.252, 210.254, and 210.1080 - Child care facilities

Officials from the **Department of Health and Senior Services (DHSS)** stated:

§208.044.2 is amended to require any provider of child day care services to become licensed if they are caring for more than six children. Currently, the law requires licensure if no more than four unrelated children are being cared for.

§210.211 changes the threshold for child care licensure by increasing the overall number a provider could care for, including a maximum of three children under the age of two. Currently, there is no requirement for licensure based on the age of children at the facility. It requires the provider's related children be counted in that number unless the children are school-aged children who live in the home.

§210.245.7 provides that any person who operates an unlicensed, nonexempt child-care facility in violation of the provisions of sections 210.201 to 210.245 shall be liable for a civil penalty of not less than seven hundred fifty dollars and not more than two thousand dollars. The department shall serve upon such person written notice of the department's findings as to the child-care facility's unlicensed, nonexempt status, along with educational materials about Missouri's child-care facility laws and regulations, how a facility may become exempt or licensed, and penalties for operating an unlicensed, nonexempt child-care facility. The notice shall contain a statement that the person shall have thirty days to become compliant with sections 210.201 to 210.245, including attaining exempt status or becoming licensed. The person's failure to do so shall result in a civil action in the circuit court of Cole County or criminal charges under this section. If, following the receipt of the written notice, the person operating the child-care

ASSUMPTION (continued)

facility fails to become compliant with sections 210.201 to 210.245, the department may bring a civil action in the circuit court of Cole County against such person. The department may, but shall not be required to, request that the attorney general bring the action in place of the department.

Oversight notes that the penalties collected will be distributed to schools according to the location of the facility that is fined. It is unknown whether fines will be imposed or the potential amount collected for distribution to school districts. In 2018, Office of the State Courts Administrator noted only one infraction from Section 210.245 - so Oversight will present penalties collected and distributed to school districts as \$0 to Under \$100,000.

DHSS stated §210.245.8 establishes the "Family Child Care Provider Fund" in the state treasury, which shall consist of such funds as appropriated by the general assembly. The fund shall be a dedicated fund and moneys in the fund shall be used solely by the department for the dissemination of information concerning compliance with child-care facility laws and regulations. The legislation does not designate a funding source so revenues to the fund are unknown.

Oversight assumes funds appropriated to the Family Child Care Provider Fund to be Unknown. In addition, Oversight assumes costs incurred by the DHSS for the dissemination of information will be limited to the funds appropriated. Therefore, the estimated net effect on the Family Child Care Provider Fund will be \$0 for fiscal note purposes.

DHSS Impact

It is unknown if the legislation will lead to an increase or decrease in the number of child care providers that must be licensed. The department does not currently track how many children under the age of two are currently being cared for in unlicensed facilities. Therefore, it would be impossible to know how many new child care facilities would fall under the amended requirements for licensure.

Oversight does not have any information to the contrary. DHSS notes it does not have information available to determine whether an increase/decrease in the number of Child Care Facility Specialist FTE will be required to perform inspections of licensed child care facilities and will reflect Unknown savings to Unknown costs to the General Revenue (GR) Fund for DHSS for fiscal note purposes.

ASSUMPTION (continued)

The Division of Community and Public Health (DCPH)

DHSS, DCPH provides sanitation inspections in regulated child care facilities. Based on the change in how many facilities must be licensed under the proposed legislation, the number of sanitation inspections may either increase or decrease by an unknown amount. This may create either a need for additional staff or reduce the need for staff, resulting in either a cost savings or the need for an increase in FTE.

Oversight does not have any information to the contrary. Oversight assumes the DHSS does not have information available to determine whether an increase/decrease in the number of Environmental Public Health Specialist V FTE will be required to perform inspections of licensed child care facilities and will reflect Unknown savings to Unknown costs to the General Revenue (GR) Fund for DHSS for fiscal note purposes.

Division of Regulation and Licensure (DRL)

DHSS, DRL stated it is responsible for regulating child care facilities. Currently, there is no statutory limit on the number of children under the age of two that a provider cares for so DRL does not collect this information; therefore, the number of providers that are currently exempt from licensure who would be required to become licensed under this legislation is unknown. DRL assumes that a number of these providers would require at least one inspection and some would choose to become licensed in order to remain operating; however, this number is unknown.

Written notice of the department's findings are currently provided to a child care facility; however, the number of providers who would be found operating in violation of this legislation is unknown.

Development of educational materials are within the normal ebb and flow for the DRL so minimal time and expense will be required to conduct the requirements of this legislation. It is assumed the educational materials will be available online.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the unknown costs/savings provided by DHSS for fiscal note purposes. In addition, Oversight assumes the DHSS has sufficient staff and resources to perform the additional duties required to develop educational materials for child care facilities.

ASSUMPTION (continued)

DHSS, Office of General Counsel (OGC)

DHSS, OGC officials stated this legislation will require the department to serve written notice of the department's findings as to a child care facility's unlicensed, nonexempt status, along with educational materials about Missouri's child care facility laws and regulations. This change of including unlicensed, nonexempt child care facilities in violation of provisions of sections 210.201 to 210.245 will increase the workload of General Counsel. Adding these entities into the current workload would result in the need for .60 FTE. In addition, if, following the receipt of the written notice, the person operating the child care facility fails to become compliant with sections 210.201 to 210.245, the department may bring a civil action in the circuit court of Cole County against such person. The department may, but shall not be required to, request that the attorney general bring the action in place of the department.

Based upon the number of cases that DHSS would have had to file in 2018 (if this legislation had been in place) the following costs have been identified:

Hearing shall be conducted by the Department of Health and Senior Services within ten days from the date the appeal is filed. The department may bring civil action in the circuit court of Cole County against such person. DHSS assumes that staff will travel to the county of the offense; therefore additional travel expenses are needed.

- 80 Cases X 1.5 actions = 120 actions
- 120 cases X 10.28 hours per action = 1,234 total hours
- 1,234 (hours) / 2080 hours = .60 FTE

§210.245.7 of the proposed legislation could require the promulgation of rules and regulations, which include the following duties (but not all inclusive): establish guidelines, implement strategies, make evidence-based system changes, and create policy recommendations. DHSS, OGC will need an additional 0.1 FTE for an attorney to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility. Due to current workload being at maximum limits, these costs cannot be absorbed.

Oversight assumes 0.1 FTE and 0.6 FTE would not be provided fringe benefits and the state would only pay Social Security and Medicare benefits of 7.65 percent. In addition, Oversight assumes the DHSS would not need additional rental space for 0.1 FTE. However, if multiple proposals pass during the legislative session requiring additional FTE, cumulatively the effect of all proposals passed may result in the DHSS needing additional rental space.

ASSUMPTION (continued)

Oversight assumes since DHSS states their responsibility to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility, Oversight will range the cost of the partial FTE from \$0 to DHSS' estimate less fringe benefits over 7.65% and rental space costs for 0.1 FTE.

Officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any indigent clients faced with the enhanced penalties for making false statements on a child care license application, a new class C misdemeanor. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

In response to a similar proposal (SB 336), officials from the **Department of Social Services (DSS)** stated the department does not anticipate a fiscal impact as a result of this legislation. Approximately 60 child care providers serving 148 children could be negatively impact by this legislation. The economic impact could be as much as \$2,900 annually per child by reducing the number of related children that a child care provider is able to serve. However, if the 148 children move to a different child care provider, those providers would have a positive impact.

ASSUMPTION (continued)

Oversight does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact for DSS but will indicate this proposal will have a fiscal impact on small business child care providers.

In response to a similar proposal (SB 336), **Oversight** notes that the **Office of Attorney General, Department of Public Safety, Division of Fire Safety** and **Office of State Courts Administrator** stated the proposal would not have a direct fiscal impact on their organizations.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

§§210.192, 210.194 and 210.195 - Child fatality review panels

Oversight notes that the **Department of Health and Senior Services (DHSS)** and the **Department of Social Services (DSS)** have stated this would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

Oversight notes provisions in 210.194.4 provide that the State Technical Assistance Team (STAT) shall make nonidentifiable, aggregate data on child fatalities publicly available. Officials from the DSS state that child fatality data is already loaded in an on-line database. The deidentification process is built into the current software used and as a result there would be no fiscal impact for the provisions of this proposal.

Oversight notes provisions in 210.192.3 removes language that requires the DHSS to analyze the child fatality review panel reports and periodically prepare epidemiological reports which describe the incidence, causes, location and other factors pertaining to childhood deaths. DHSS officials indicate there will be no cost savings with the removal of these provisions because the DHSS has not been preparing reports as the state Child Facility reports are already covering this information on an annual basis. DHSS does provide the linkages of birth and death records to the State Child Fatality report and will continue to do so. DHSS also provides information through the annual vital statistics report on causes of death and location, but that is a public health surveillance requirement and would not be affected by this proposal. Finally, DHSS officials state the proposal to remove the requirement was done in order to remove a statutory obligation that is obsolete considering how reports have been and are currently published.

ASSUMPTION (continued)

§§210.221 and 566.147 - Location of child care facilities

In response to a similar proposal (SCS for SB 386), **Oversight** notes that the **Department of Health and Senior Services (DHSS)** stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

Oversight notes the provisions of 210.221.3 are permissive and do not require the DHSS to deny an application for licensure of a child-care facility if it is located within one thousand feet of any location where a sex offender resides or receives treatment/services. In addition, child-care facilities that care for four or fewer children that are unrelated are not required to obtain a license from the DHSS, in addition to private or religious organizations and nursery schools, among others. Persons applying for licensure of a child-care facility are not required to pay a licensing fee, so the provisions of this proposal would have no costs or savings to the DHSS.

This part of the proposal has an emergency clause.

§210.565 - Foster care placement

In response to a similar proposal (SB 440), officials from the **Department of Social Services** stated the proposal would not have a direct fiscal impact on their organization.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

Oversight notes the provisions of §210.565 provide that the Children's Division shall give foster home placement to relatives of the child. This proposal expands the list of relatives that could act as a foster home for a child. "Relatives" is expanded include adult siblings, and parents of siblings.

§210.1014 - Amber Alert System/Hailey's Law

In response to a similar proposal (SS for SB 145), **Oversight** notes that the **Department of Public Safety - Missouri State Highway Patrol (MHP)** stated the proposal would not have a direct fiscal impact on their organization. The MHP states the Amber Alert is already built into the Missouri Uniform Law Enforcement System (MULES). The MHP is currently working on enhancing a system interface that a law-enforcement agency utilizing the Regional Justice Information Service (REJIS) would be able to use to request an Amber Alert directly from the REJIS system. Therefore, given this work is already underway, the MHP assumes no additional work will be required at the state level to comply with this bill.

ASSUMPTION (continued)

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

In response to a similar proposal (SS for SB 145), officials from the **Department of Public Safety - Office of the Director** deferred to the response from the MHP since the systems in this proposal are housed there.

§452.377 - Child Relocation

In response to a similar proposal (SCS for SB 83), **Oversight** notes that the **Department of Social Services** and the **Office of the State Courts Administrator** stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§§454.507 and 513.430 - Child support enforcement

In response to a similar proposal (SB 277), officials from the **Department of Social Services (DSS)** stated §454.507.3 requires financial institutions to enter into data match agreements with the Family Support Division (FSD). FSD expects an additional 171 financial institutions to participate in the in-state financial institution data match (FIDM) program. (424 financial institutions in Missouri - 63 federally chartered and required to participate = 361 subject to participation - 190 currently participating = 171 institutions to be added to the FIDM program).

In SFY 2018, FSD completed 5,780 financial liens to encumber obligors' assets from the 190 financial institutions currently participating in the FIDM program. An average of 30 liens were issued per financial institution (5,780/190). Therefore, FSD can expect to issue an additional 5,130 liens to encumber obligors' assets from the 171 additional financial institutions (171 x 30) participating in the FIDM program as a result of this legislation. There are 19 child support enforcement offices (including Prosecuting Attorney offices) that currently issue financial liens. Each enforcement office could potentially issue an additional 270 liens annually (5,130/19). The additional duties associated with the increase in liens issued can be absorbed by existing FSD staff as the cost would be less than \$10,000.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the DSS has sufficient staff and resources to complete the additional work issuing liens required by this legislation.

ASSUMPTION (continued)

DSS officials stated in SFY 2018, FSD collected approximately \$276,332 from in-state financial liens from the 190 financial institutions participating in the in-state FIDM program. The average collection per participating financial institution was \$1,454 ($\$276,332/190$). Assuming the same average collection for the additional 171 financial institutions, the FSD estimates the increased FIDM collections from the data match expansion to be \$248,634 annually ($171 \times \$1,454$). In SFY 2018, 91% of the \$276,332 collections were distributed to families and 9% were retained by the state. Therefore, FSD projects that \$22,377 ($\$248,634 \times 9\%$) of the anticipated future FIDM collections will apply to TANF. The state is required to split assigned support collections on current and former TANF cases with the federal government. The federal portion is approximately 65% and the remaining 35% is deposited into the Child Support Enforcement Collections (CSEC) fund used to fund Missouri's IV-D program. The state share of the increased collections would be \$7,832 ($\$22,377 \times 35\%$).

FSD pays \$13.50 each month for each financial institution with a signed and complying agreement. The cost for the additional 171 financial institutions projected to sign an agreement is \$27,702 ($171 \times \13.50×12 months). FSD also pays a fee of \$75 per quarter to each financial institution that requests reimbursement. In SFY 2018, 24 of the 190 financial institutions requested quarterly reimbursement for a percentage of 13% ($24/190$). Therefore, FSD assumes that 22 of the 171 additional financial institutions will request reimbursement ($171 \times 13\%$) for a projected annual cost to FSD of \$6,600 ($22 \times \75×4 quarters). The total projected cost to FSD under this proposed legislation to operate the expanded data match program is \$34,302 ($\$27,702 + \$6,600$). Qualifying IV-D expenditures are federally reimbursed at a rate of 66%. The cost for the state share would be 34% of the total cost, or \$11,663 annually ($\$34,302 \times 34\%$). The federal portion would be \$22,639 ($\$34,302 \times 66\%$).

The estimated increased collections to the state offsets a portion of the GR cost to FSD for operating the expanded data match program within the child support program. The net GR cost to FSD is \$3,831 annually ($\$11,663$ GR costs - $\$7,832$ in TANF collections (TANF collections go into the CSEC fund)). The federal portion would remain \$22,639.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by DSS for fiscal note purposes.

Oversight notes that the **Department of Insurance, Financial Institutions and Professional Registration** has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

ASSUMPTION (continued)

§§454.600 and 454.603 - Health care through a child support order

In response to a similar proposal (SB 448), officials from the **Department of Social Services (DSS)** stated this legislation is federally mandated by 45 CFR 303.31 revised under the 2017 Flexibility, Efficiency, and Modernization in Child Support Programs Final Rule.

For the purposes of this fiscal note, this risk of loss of federal funding is not included in the overall fiscal impact. If this legislation is not passed, the state would risk losing the full IV-D federal share of expenditures for Missouri's IV-D program, including incentive payments, and the Temporary Assistance for Needy Families (TANF) block grant. The Office of Child Support Enforcement recently sent a letter to the Family Support Division (FSD) regarding noncompliance.

Assuming this proposal is passed, the provisions of the proposal will have no fiscal impact on the DSS.

Oversight obtained additional information from the DSS. DSS indicated if FSD does not comply with the amendments to federal law referred to above, its IV-D State Plan will not be approved and federal funding of the child support program and TANF program will be at risk. For Federal Fiscal Year (FFY) 2015, the federal share of expenditures for Missouri's IV-D program, including incentive payments, was approximately \$52.6 million. In addition, the state must have an approved IV-D state plan as a condition for eligibility for a TANF block grant. For FFY 2015, the TANF block grant to Missouri was approximately \$217 million. Oversight will present the potential loss avoidance of federal funds as "\$0 or ..." the amounts provided by DSS.

In response to a similar proposal (SB 448), **Oversight** notes that the **Office of State Courts Administrator** stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

§§567.020, 578.421, 578.423 and 610.131 - Protection of children from sex trafficking

In response to a previous version of this bill, **Oversight** notes the **Department of Corrections, Department of Public Safety - Missouri State Highway Patrol, Department of Social Services, Office of State Courts Administrator and State Public Defender's Office** each stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

ASSUMPTION (continued)

§567.050 - Prostitution

Officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed enhanced penalties for promoting prostitution if sex trafficking is involved, then the offense would be a new class A felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In FY 2018, SPD's Trial Division opened one felony promoting prostitution case.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing appropriation and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Oversight notes that according to the Office of the State Courts Administrator, there was only 1 guilty plea or verdict for Section 567.050 in FY 2018.

In response to a similar proposal (SCS for SB 37), **Oversight** notes that the **Attorney General's Office, Department of Corrections, Department of Elementary and Secondary Education,**

ASSUMPTION (continued)

Department of Public Safety - Missouri State Highway Patrol, Office of Administration, Office of State Courts Administrator, Office of Secretary of State, Joplin Police Department and Springfield Police Department stated the proposal would not have a direct fiscal impact on their organizations.

In response to a similar proposal (SB 37), **Oversight** notes that the **St. Louis County Department of Justice Services, St. Louis County Police Department and Boone County Sheriff's Department** stated the proposal would not have a direct fiscal impact on their organizations.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Bill as a Whole

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

Oversight notes that the **Department of Higher Education, Department of Mental Health, Department of Revenue and Office of State Treasurer** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

| <u>FISCAL IMPACT - State Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
|--|-----------------------------|-----------------------------|-----------------------------|
| GENERAL REVENUE FUND | | | |
| <u>Transfer-in</u> from Child Support Enforcement Collections Fund (\$454.507) p. 15 | | | |
| Increase in child support collections | \$6,527 | \$7,832 | \$7,832 |
| <u>Transfer-out</u> - Appropriations to the Family Child Care Provider Fund (\$210.245) p. 8 | | | |
| | \$0 to (Unknown) | \$0 to (Unknown) | \$0 to (Unknown) |
| <u>Costs</u> - DSS (§208.151) p. 6 | | | |
| Increase in state share of MO HealthNet benefits for foster children | (\$31,183) | (\$63,863) | (\$65,396) |
| <u>Costs</u> - DSS (§454.507) p. 15 | | | |
| Reimbursements to financial institutions | (\$9,719) | (\$11,663) | (\$11,663) |
| <u>Costs</u> - OA, ITSD (§208.151) p. 6-7 | | | |
| FACES system modifications (ranged from contracting out the programming (\$32,076) to hiring additional 1 FTE IT Specialist) | (\$32,076 to \$44,000) | \$0 or (\$80,800) | \$0 or (\$81,608) |
| MEDES modifications | (\$161,741) | \$0 | \$0 |
| FTE Change - OA, ITSD | 0 or 0.66 FTE | 0 or 1 FTE | 0 or 1 FTE |
| <u>Savings/Costs</u> - DHSS (§§208.044 and 210.211) p. 8 | | | |
| Personal service and related expenditures (increase or decrease in the number of Child Care Facility Specialists and/or Environmental Public Health Specialists) | Unknown to (Unknown) | Unknown to (Unknown) | Unknown to (Unknown) |
| FTE Change - DHSS | Unknown to (Unknown) FTE | Unknown to (Unknown) FTE | Unknown to (Unknown) FTE |

| <u>FISCAL IMPACT - State Government</u> | FY 2020 | FY 2021 | FY 2022 |
|---|--|--|--|
| | (10 Mo.) | | |
| GENERAL REVENUE FUND | | | |
| (continued) | | | |
| <u>Costs - DHSS (§§210.201 to 210.245)</u> | | | |
| p. 7-10 | \$0 to... | \$0 to... | \$0 to... |
| Personal service (0.6 FTE for hearings and 0.1 FTE for promulgation of rules) | (\$37,625) | (\$39,087) | (\$39,478) |
| Fringe benefits | (\$2,878) | (\$2,990) | (\$3,020) |
| Equipment and expense | <u>(\$16,169)</u> | <u>(\$11,168)</u> | <u>(\$11,449)</u> |
| Total <u>Costs</u> - DHSS | \$0 to (\$56,672) | \$0 to (\$53,245) | \$0 to (\$53,947) |
| FTE Change - DHSS | 0 to 0.7 FTE | 0 to 0.6 FTE | 0 to 0.6 FTE |
| <u>Costs - SPD (§210.245 & §567.050)</u> | | | |
| Salaries, fringe benefits, and equipment and expense p. 11 & p. 17 | (Less than <u>\$100,000</u>) | (Less than <u>\$100,000</u>) | (Less than <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND | <u>Unknown to Could exceed (\$328,192 to \$396,788)</u> | <u>Unknown to Could exceed (\$167,694 to \$301,739)</u> | <u>Unknown to Could exceed (\$169,227 to \$304,782)</u> |
| Estimated Net FTE Change on the General Revenue Fund | Unknown to (Unknown) FTE | Unknown to (Unknown) FTE | Unknown to (Unknown) FTE |
| CHILD SUPPORT ENFORCEMENT COLLECTIONS FUND (0169) | | | |
| <u>Income - DSS (§454.507) p. 15</u> | | | |
| Increase in child support collections | \$6,527 | \$7,832 | \$7,832 |
| <u>Transfer-out to General Revenue Fund</u> | | | |
| Increase in child support collections | <u>(\$6,527)</u> | <u>(\$7,832)</u> | <u>(\$7,832)</u> |
| ESTIMATED NET EFFECT ON THE CHILD SUPPORT ENFORCEMENT COLLECTIONS FUND | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

| <u>FISCAL IMPACT - State Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
|---|---|---|---|
| FEDERAL FUNDS | | | |
| <u>Income</u> - DSS (§208.151) p. 4-6 | | | |
| Increase in program reimbursements | \$59,434 | \$121,720 | \$124,641 |
| <u>Income</u> - OA, ITSD (§208.151) p. 6-7 | | | |
| Reimbursement for MEDES and FACES system updates | \$501,746 or \$507,889 | \$0 | \$0 |
| <u>Income</u> - DSS (§454.507) p. 15 | | | |
| Increase in child support collections | \$18,866 | \$22,639 | \$22,639 |
| <u>Loss Avoidance</u> - DSS (§§454.600 and 454.603) p. 16 | \$0 or... | \$0 or... | \$0 or... |
| Loss of IV-D program expenditures and incentive payments | \$52,646,865 | \$52,646,865 | \$52,646,865 |
| Loss of TANF block grant | \$217,051,740 | \$217,051,740 | \$217,051,740 |
| <u>Costs</u> - DSS (§454.507) p. 14-15 | (\$18,866) | (\$22,639) | (\$22,639) |
| <u>Costs</u> -DSS (§208.151) p. 4-6 | | | |
| Increase in program costs for children in foster care | (\$59,434) | (\$121,720) | (\$124,641) |
| <u>Costs</u> - OA, ITSD (§208.151) p. 6-7 | | | |
| FACES system modifications (ranged from contracting out the programming to hiring additional 1 FTE IT Specialist) | (\$16,524 or \$22,667) | \$0 | \$0 |
| MEDES modifications | <u>(\$485,222)</u> | <u>\$0</u> | <u>\$0</u> |
| FTE Change - OA, ITSD | 0.34 FTE | 0 FTE | 0 FTE |
| ESTIMATED NET EFFECT ON FEDERAL FUNDS | <u>\$0 or</u> <u>\$269,698,605</u> | <u>\$0 or</u> <u>\$269,698,605</u> | <u>\$0 or</u> <u>\$269,698,605</u> |
| Estimated Net FTE Change on Federal Funds | 0.34 FTE | 0 FTE | 0 FTE |

| <u>FISCAL IMPACT - State Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
|--|--|--|--|
| FAMILY CHILD CARE PROVIDER FUND | | | |
| <u>Transfer-in</u> - Appropriations from the General Revenue Fund (§210.245) p. 7-8 | \$0 to Unknown | \$0 to Unknown | \$0 to Unknown |
| <u>Costs</u> - DHSS Expenses associated with dissemination of information regarding child-care laws and regulations | <u>\$0 to (Unknown)</u> | <u>\$0 to (Unknown)</u> | <u>\$0 to (Unknown)</u> |
| ESTIMATED NET EFFECT ON THE FAMILY CHILD CARE PROVIDER FUND | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| | | | |
| <u>FISCAL IMPACT - Local Government</u> | FY 2020 (10 Mo.) | FY 2021 | FY 2022 |
| LOCAL GOVERNMENTS - SCHOOL DISTRICTS | | | |
| <u>Income</u> - School Districts (§210.245) p. 8 Distribution of fine income | <u>\$0 or Under \$100,000</u> | <u>\$0 or Under \$100,000</u> | <u>\$0 or Under \$100,000</u> |
| ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - SCHOOL DISTRICTS | <u>\$0 or Under \$100,000</u> | <u>\$0 or Under \$100,000</u> | <u>\$0 or Under \$100,000</u> |

FISCAL IMPACT - Small Business

§§208.044, 210.025, 210.201, 210.211, 210.245, 210.252, 210.254, and 210.1080

This proposal will have a direct fiscal impact on unlicensed child care providers who will be required to become licensed. Although there is no cost for a license, the provider will need to comply with applicable child care licensing rules and regulations and there may be a cost to the provider in order to come into compliance. In addition, changes in the number of children that can be cared for by a provider may impact small business child care providers.

§§454.600 and 454.603

The loss of federal funding through the TANF block grant could significantly impact small businesses.

§§210.221 and 566.147

This proposal could impact some small business daycare facilities, if they care for more than 4 unrelated children and are not exempt from licensing provisions, if the location they choose is within one thousand feet of the location that a sex offender lives or receives treatment/services at and DHSS does not grant them a license. There is, however, no cost for the daycare license.

FISCAL DESCRIPTION

§§208.044, 210.025, 210.201, 210.211, 210.245, 210.252, 210.254, and 210.1080

This act modifies the laws regarding licensing child care facilities in several ways. First, the requirement to have a child care facility license shall not apply to any person caring for six or fewer related or unrelated children, including a maximum of three children under age two, at the same physical address. Children who live in the caregiver's home and who are eligible for enrollment in a public kindergarten, elementary, or high school shall not be included in the total.

Additionally, this act increases the criminal penalties for persons who violate the child care licensure statutes from an infraction with fine not to exceed two hundred dollars for the first offense to a Class C misdemeanor and a fine not to exceed seven hundred fifty dollars and from a Class A misdemeanor and a fine of up to two hundred dollars per day for subsequent offenses to a Class A misdemeanor and a fine of up to two thousand dollars per day.

FISCAL DESCRIPTION (continued)

The Department of Health and Senior Services may file suit for injunctive relief for cases of imminent bodily harm to a child in the care of an unlicensed, nonexempt child care facility. The Department shall not be subject to liability for failing to file suit under this provision.

This act creates a civil penalty, enforceable by the Department, for any person who operates an unlicensed, nonexempt child care facility. The Department shall send a written notice to such person of the Department's findings, along with educational materials about child care facility laws and the ways to become compliant with such laws, including attaining exempt status or becoming licensed. The person shall have 30 days to become compliant and if such person fails to do so, he or she shall be liable for a civil penalty of not less than \$750 and not more than \$2,000. The Department, or the Attorney General on the Department's behalf, may bring a civil action in Cole County against such person. The Department shall not be subject to liability for failing to file suit under this provision.

Finally, this act creates the "Family Child Care Provider Fund", which shall consist of appropriated funds. The Fund shall be used by the Department for the dissemination of information concerning compliance with child care facility laws, educational initiatives, and the provision of financial assistance, based on need as determined by the Department and available funds, for family child care homes to become licensed.

§208.151

Under this act, persons who reside in Missouri, are at least 18 years of age and under 26, and who have received foster care for at least six months in another state shall be eligible for MO HealthNet benefits.

§§454.507 and 513.460

This act modifies several provisions relating to child support enforcement. First, this act modifies the definition of "account" with reference to accounts in financial institutions maintained by a non-custodial parent to include traditional individual retirement accounts (IRAs) and Roth IRAs. Additionally, traditional IRAs and Roth IRAs shall not be exempt from attachment or execution for child support enforcement.

This act requires the Family Support Division within the Department of Social Services to enter into an agreement with each financial institution within the state to develop and operate a data match system for child support enforcement, unless such institution does business in 2 or more

FISCAL DESCRIPTION (continued)

states and enters into an agreement with the federal Office of Child Support Enforcement for a data match.

Current law requires the Division or IV-D agency to notify by mail a non-custodial parent account holder of the issuance of a lien on the account at a financial institution. This act provides that if the account is jointly owned, such interests are presumed equal unless proven otherwise within 30 days of the mailing of the notice to the non-custodial parent.

§§454.600 and 454.603

This act modifies the definition of a "health benefit plan" to include public assistance programs when referring to the provision of health care to a child through a child support order. The court or Children's Division shall require the child to be covered by a health benefit plan in any IV-D case. The plan may be private whenever such a plan is available through a parent's employer or union. If a private plan is not available at a reasonable cost, the court may require a parent to otherwise provide coverage for the child.

§567.050

This act modifies the offense of promoting prostitution in the first degree. A person may be found guilty of such offense if he or she owns, manages, or operates an interactive computer service with the intent to promote or facilitate the prostitution of another. Such offense shall be a Class A felony if the person, in addition to operating an interactive computer service with the intent to promote prostitution while using a facility affecting commerce, acts in reckless disregard of the fact that such conduct contributed to the offense of trafficking for the purposes of sexual exploitation. A person injured by such actions may recover civil damages and restitution.

Part of this legislation (§§454.600 and 454.603) is federally mandated. The legislation would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Elementary and Secondary Education
Department of Insurance, Financial Institutions and Professional Registration
Department of Higher Education
Department of Health and Senior Services
Department of Corrections
Department of Public Safety
Department of Mental Health
Department of Revenue
Department of Social Services
Missouri Office of Prosecution Services
Office of Administration
Office of State Courts Administrator
Office of Secretary of State
State Public Defender's Office
State Treasurer's Office
Cass Regional Medical Center



Kyle Rieman
Director
May 10, 2019

Ross Strobe
Assistant Director
May 10, 2019