

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1462-02
Bill No.: SCS for SB 363
Subject: Highway Patrol; Federal-State Relations; Department of Social Services; Law Enforcement Officers and Agencies; Courts
Type: Original
Date: March 15, 2019

Bill Summary: This proposal modifies provisions relating to background checks.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds*	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

*According to the Missouri Highway Patrol (MHP), this proposal will allow the continuation of the MHP to submit federal finger-print criminal record checks for licensing and employment purposes. It is unknown when the MHP will be out of compliance with the FBI. The passage of this bill will enable the Patrol to continue its current process and remain in compliance.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§43.539, 43.540 and 43.548 - Fingerprint-based criminal records checks

Officials from the **Department of Public Safety - Missouri Highway Patrol** assume this proposal would not fiscally impact their agency. This bill contains corrective language in Section 43.540 to authorize federal fingerprint-based criminal record checks in order to remain compliant with federal requirements (P.L. 92-544). The Federal Bureau of Investigation (FBI) has indicated there is a possibility, if the language is not corrected, Missouri would be ineligible to submit federal fingerprint-based criminal record checks for licensing and employment purposes. If the FBI were to deny future submissions, no city, county, or state governmental agency would be eligible to submit federal fingerprint-based criminal record requests. The MHP receives a \$2 pass-thru fee for each fingerprint-based criminal record check completed. Based on 2018 submissions, this would have eliminated approximately 95,000 applicants and a \$190,000 (95,000 x \$2) loss of revenue to the Criminal Records System Fund.

Oversight assumes one purpose of this bill is to correct the language in §43.540 to authorize federal fingerprint-based criminal record checks in order to remain compliant with federal requirements. According to the Missouri Highway Patrol (MHP), this proposal will allow the continuation of the MHP to submit federal fingerprint-based criminal record checks for licensing and employment purposes. It is unknown when the MHP will be out of compliance with the FBI. The passage of this bill will enable the Patrol to continue its current process and remain in compliance. Oversight will not reflect an impact in the fiscal note for the MHP.

For the purpose of this proposed legislation, 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 new crime of disseminating confidential fingerprint information - a new class A 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

ASSUMPTION (continued)

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 resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Officials from the **Office of the Secretary of State (SOS)** state 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 SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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 require additional resources.

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

Oversight assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

Oversight notes that the **Department of Elementary and Secondary Education, Department of Health and Senior Services, Department of Mental Health, Department of Social**

ASSUMPTION (continued)

Services and Office of State Courts Administrator have stated the proposal would not have a direct fiscal impact on their organizations.

In response to a previous version, **Oversight** notes that **Wellsville-Middletown R-1** 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 these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2020	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Costs - SPD (§§43.539, 43.540, 43.548)</u>			
Salaries, fringe benefits, and equipment and expense	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2020	FY 2021	FY 2022
	<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

Currently, certain public and private qualified entities may enroll in the Missouri and Federal RAP Back programs and utilize the background check resources for applicants for employment or volunteer positions. This act removes organizations and entities that may be privately owned and operated that provide care, care placement, or educational services for children, the elderly, or persons with disabilities as patients or residents from the existing background check provisions and creates new provisions that authorize such entities to enroll in the Missouri and Federal RAP Back programs and utilize such background check resources.

FISCAL DESCRIPTION (continued)

Finally, this act authorizes the Department of Social Services and circuit courts to fingerprint applicants for purposes of adoptions, guardians, conservators, advocates and personal representatives over minors, incapacitated, elderly or disabled individuals. These fingerprints will be given to the Missouri Highway Patrol and FBI who will both conduct a background check of the individual fingerprinted. If either background check discovers any criminal history records, then all of those records will be made available to the entity that requested the background check.

This act contains an emergency clause.

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 Elementary and Secondary Education
Department of Health and Senior Services
Department of Mental Health
Department of Public Safety -
 Missouri State Highway Patrol
Department of Social Services
Joint Committee on Administrative Rules
Office of Secretary of State
Office of State Courts Administrator
State Public Defender's Office
Wellsville-Middletown R-1



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March 15, 2019

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