

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3423-06
Bill No.: CCS for HCS for SCS for SB 653
Subject: Children and Minors; Children's Division; Courts; Courts, Juvenile; Domestic Relations; Family Law; Social Services Department
Type: Original
Date: May 12, 2020

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(\$387,786)	(\$94,061)	(\$95,046)
Total Estimated Net Effect on General Revenue	(\$387,786)	(\$94,061)	(\$95,046)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 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 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. 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.

§210.112 - DSS services to children and child placement provisions

In response to a previous version of this proposal, officials from the **Department of Social Services (DSS), Children's Division (CD)** stated this section requires CD to create a response and evaluation team. CD does not anticipate fiscal impact as a result of the creation of a response and evaluation team. These duties would be absorbed by existing staff.

This bill also removes a large section regarding contracts which does not create an impact for the Division.

CD also stated this section requires the payment to contracted children's services providers and agencies to be made based on the reasonable costs of services, including responsibilities necessary to execute the contract. Any reimbursement increases made through enhanced appropriations for services shall be allocated to providers regardless of whether the provider is public or private. Such increases shall be considered additive to the existing contracts. In addition to payments reflecting the cost of services, contracts shall include incentives provided in recognition of performance based on the evaluation tool and the corresponding savings for the State. The response and evaluation team shall review a formula to distribute such payments, as recommended by the division. This matches CD's existing process.

The provisions of this section have no fiscal impact on CD.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact assumed by CD for this section for fiscal note purposes.

In response to a previous version of this proposal, the **Office of Administration (OA), Information Technology Services Division (ITSD)/DSS** stated §210.112; 210.123 and 210.145 of the proposed legislation will result in required updates to the Family And Children Electronic System (FACES).

ASSUMPTION (continued)

ITSD/DSS assumes for the purposes of this fiscal note that the existing functionality is not sufficient and that each piece would be new development and/or changes for FACES with the exception of the Case Review Tool. These changes include, but are not limited to: development of new screens, data elements and database tables; navigational functionality allowing for the transfer of data; modifications to intertwined components and subsystems; and updated security access.

Additionally, the reference regarding the implementation of an electronic system for the ICPC group is assumed to be unnecessary since FACES incorporated the National Electronic Interstate Compact Enterprise (NIECE) system into FACES in November 2019. Building a replacement for the new system is not accounted for in this level of effort.

Oversight notes ITSD assumed that every new IT project/system will be bid out because all their resources are at full capacity. For this bill, ITSD assumed they will contract out the programming changes needed for FACES. ITSD estimated the project would take 3,240 hours at a contract rate of \$95 for a total cost of **\$307,800** (100% GR). Oversight notes that an average salary for a current IT Specialist within ITSD is approximately \$54,641, which totals roughly \$85,000 per year when fringe benefits are added. Assuming that all ITSD resources are at full capacity, Oversight assumes ITSD may (instead of contracting out the programming) hire 3 additional IT Specialists to perform the work required from this bill; however, for fiscal note purposes, Oversight will reflect the ITSD estimated cost of \$307,800 in FY 2021 exclusively.

§210.116 - DSS Children's Division may share certain records

In response to a previous version of this proposal, **CD** stated this section of the proposal allows CD to enter agreements with other states to exchange abuse reports and they assume no fiscal impact.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact assumed by CD for this section for fiscal note purposes.

§210.123 - Child placement and reporting

In response to a previous version of this proposal, **CD** stated this section defines "temporary alternative placement agreement", as a voluntary agreement between CD, a relative of the child, and the parent or guardian of the child to provide a temporary, out of home placement for a child if the parent or guardian is temporarily unable to provide care or support for the child and the child is not in imminent danger of death or serious bodily injury, or being sexually abused such that the division determines a referral to the juvenile office with a recommendation to file a petition or to remove the child is not appropriate. This bill lists the required contents of the temporary alternative placement agreement.

ASSUMPTION (continued)

In addition to a number of other requirements and guidelines, this section requires CD to submit a written report to Juvenile Office, no later than 10 days before the termination of the temporary alternative placement agreement. CD shall also provide a copy of the report to the placement provider and the child's parent or guardian. CD assumes no fiscal impact from the provisions of this section.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact assumed by CD for this section for fiscal note purposes.

§210.145 - Development of a joint safety assessment tool

In response to a previous version of this proposal, **CD** stated §210.145 states CD shall utilize structured decision making protocols, including a standard risk assessment for classification purposes of all child abuse and neglect reports. It also adds CD and the Office of State Courts Administrator (OSCA) develop a joint safety assessment tool before December 31, 2020, to be implemented by January 1, 2022. This will replace the current standard risk assessment.

CD currently uses a risk assessment when assessing on child abuse and neglect reports. CD began implementation of the risk assessment tool on November 1, 2019, and is currently working with OSCA in developing a joint safety assessment tool. CD anticipates no fiscal impact by adding the risk assessment. CD will work with OSCA to secure funding for the development of a joint safety assessment. The development of a new tool would need to be piloted and validated prior to use and the time frame provided may not be sufficient.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact assumed by CD for this section for fiscal note purposes.

§210.566 - Foster parent supervision of family visits

In response to a previous version of this proposal, officials from **CD** stated §210.566 requires CD and its contractors to provide written notification of the rights enumerated in this section at the time a child is placed with the prospective foster parent. This section also adds the requirement that CD and its contractors provide full access to the child's medical, psychological, and psychiatric records in its possession at the time of placement, including records prior to the child coming into care, at the time the child is placed with a foster parent.

DSS is interpreting the term "full access" to be consistent with CD's current Treatment Access policy in its Child Welfare Manual Section 5 Chapter 3 states, in relevant part, the following:

ASSUMPTION (continued)

Supreme Court Rule 123.08 requires CD and the Juvenile Officer to provide access to records and information within specific time frames without a formal discovery request. Within ten (10) days of the protective custody hearing or within fourteen (14) days of the filing of the petition or motion to modify, CD and Juvenile Officer must allow for certain records to be made available to all parties. The records may include the following and should be relevant to the allegations in the petition:

- Medical records of the juvenile;
- Law enforcement records, including incident reports. If information regarding an active investigation is requested, CD staff should request permission from law enforcement to release the information. If law enforcement will not approve the release due to an active investigation, CD should notify all parties that the information cannot be released at this time;
- Written statements, videotapes, and audiotapes regarding the juvenile and or parents/guardians;
- Reports and affidavits submitted by CD to the juvenile office recommending protective custody or a petition to be filed;
- Completed CD reports and safety plans;
- Written service agreements; and
- Completed hotline reports, redacted as required by law. If the hotline report is not completed by the timeframes set forth in the initial court hearing, the report should be made available upon completion.

CD must also make available to all parties any new relevant information related to the allegations obtained within ten (10) days of receipt of the request. The rule does not require CD to make copies of the information. Staff may schedule an appointment for the party to review the relevant information in the record. If the party or attorney would like copies of the documents, they may provide a written or verbal request. If copies of the information are requested, CD must follow the timeframes established in this rule as this rule supersedes the CD policy which allows ten (10) days to prepare the case file. Only one copy per party will be made. Any additional copies will be made at the expense of the person requesting the copy.

In this version of the legislation, the addition of the child's medical, psychological, and psychiatric records in its possession at the time of placement remedies a concern regarding the limitations CD has to access a child's records at the time of placement.

Additionally after initial placement, CD and its contractors are required to have a continuing duty and obligation to provide access to such records that come into its possession or of which the division or its contractors become aware.

ASSUMPTION (continued)

Access shall include providing information and authorization for foster parents to review or to obtain the records directly from the medical, psychological, or psychiatric services provider.

CD does not anticipate a fiscal impact as a result of this section of the proposed legislation.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact assumed by CD for this section for fiscal note purposes.

§210.652 - Electronic data exchange for the Interstate Compact on the Placement of Children

In response to a previous version of this proposal, **CD** stated this section, beginning August 28, 2020, will require DSS in conjunction with the Office of Administration, to implement a computerized method to allow for the electronic exchanging of data and documents required by the Interstate Compact on the Placement of Children to place children across state lines.

This system is up and running. There are no further costs or fiscal impact for CD associated with this legislation.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact assumed by DLS for fiscal note purposes.

In response to a previous version of this legislation, officials from the **OA, ITSD/DSS** stated the FACES NIECE Connectivity Project was recently completed and this project added the functionality to connect the Family and Children's Electronic System (FACES) with the NIECE (National Electronic Interstate Compact Enterprise) Clearinghouse so data may be transmitted back and forth to facilitate faster adoptions across state lines. The "computerized method to allow for the electronic exchanging of data and documents required by the Interstate Compact on the Placement of Children" is already in place in production. No additional work would be needed to comply with the requirements of this section of this bill.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact for OA/ITSD for fiscal note purposes.

§211.135 - When courts may order a child to appear in court

In response to a previous version of this proposal, **CD** stated §211.135 states the court, after considering all information provided by CD and input from the family support team, shall order the child to appear in court only if necessary to make a decision and after considering appropriateness of the courtroom environment for the child and the hardship to be endured by the child and current guardians in regards to the disruption in regular activities.

ASSUMPTION (continued)

CD is concerned that implementation of this section may result in a reduction in Missouri's compliance with some amendments to Title IV-E of the Social Security Act that were implemented in recent years.

CD indicates that the potential loss in federal funds could be up to:

FY 21: \$115,500,000
FY 22: \$118,387,500
FY 23: \$121,347,188

Oversight does not have any information to the contrary. Oversight notes CD's concern regarding a loss of funds due to non-compliance with provisions in Title IV-E. However, Oversight assumes CD will not be out of compliance with Title IV-E, and, therefore, Oversight will reflect no fiscal impact for CD for fiscal note purposes.

Oversight notes in response to similar legislation from this year, HCS for HB 1414, officials from the **DSS, Division of Legal Services (DLS)**, stated they were concerned the implementation of the proposal will result in a reduction in Missouri's compliance with some of the amendments to Title IV-E of the Social Security Act. Federal law requires that "procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to a successful adulthood, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child." 42 U.S.C. § 675 (5)(C)(iii).

Federal law further requires the State agency to implement procedures to ensure that at each permanency hearing regarding the child, the court "ask the child about the desired permanency outcome[.]" 42 U.S.C. 675a(a)(s)(A). DLS is concerned that the proposed bill may result in some courts declining to enter orders permitting foster children to participate in court because they perceive such participation as disruptive or traumatizing. Missouri risks a reduction in federal financial participation in supporting services for foster children if there is a reduction in compliance with these requirements.

To insure foster children have access to participation in their court cases, DLS will be required to draft, file, and argue motions. DLS estimated that 12 of the 31 full-time employee attorneys will have an increase in their workload, which is 39% of the full-time attorney staff. It is estimated that those attorneys will have to shift 10% of their time to get court orders so DSS complies with federal funding requirements. It is estimated that DLS can expect an increase of 4% in its workload should this bill pass. DLS requested 1 FTE for the increased workload.

ASSUMPTION (continued)

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

§211.171 - Foster parent access to certain foster children records

In response to a previous version of this proposal, **CD** stated this bill adds that if a foster parent alleges the court failed to allow the foster parent to be heard orally or by submission of correspondence at any hearing regarding a child in their care, the foster parent has the right to seek remedial writ relief.

This bill provides that no docket fee shall be required to be paid by the foster parent. This bill prohibits children's division from removing the child from placement with a foster parent based solely upon the foster parent's filing of a petition, unless removal is necessary to ensure the health and safety of the child.

The Children's Division does not anticipate a fiscal impact as a result of this section of the proposed legislation.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact assumed by CD for fiscal note purposes.

The MO HealthNet Division (MHD) states the Interstate Compact allows states to exchange information/payments for foster kids placed out of state. CD (MHD believes) is already paying a vendor for this service since a child could be placed in any state and the vendor works across the U.S. to distribute funds.

Responses regarding the proposed legislation as a whole

In response to a previous version of this proposal, officials from **OSCA** state there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Oversight notes OSCA is currently unable to quantify the fiscal impact, if any, to their organization. Oversight assumes OSCA will be able to absorb any costs from this proposal and they will request any necessary funding in future budget requests. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

ASSUMPTION (continued)

Officials from the **Office of Administration, Commissioner's Office** state this legislation will not fiscally impact OA.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact assumed by OA for fiscal note purposes.

Officials at the **Joint Committee on Administrative Rules (JCAR)** assume this proposal is not anticipated to cause a fiscal impact beyond current appropriations.

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

In response to similar legislation (HB 1414), 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 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.

Oversight notes that in response to similar legislation (HB 1414), the **Department of Elementary and Secondary Education** 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 only reflects the responses that we have received from state agencies and political subdivisions; however, other schools were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE FUND			
<u>Costs - OA, ITSD/DSS (§§210.112; 210.123 and 210.145) FACES system changes pp. 3-4</u>	(\$307,800)	\$0	\$0
<u>Costs - DSS (§211.135) p. 8</u>			
Personal Service	(\$44,475)	(\$53,904)	(\$54,443)
Fringe Benefits	(\$24,370)	(\$29,422)	(\$29,601)
Equipment and Expense	(\$11,141)	(\$10,735)	(\$11,002)
<u>Total Cost - DSS</u>	<u>(\$79,986)</u>	<u>(\$94,061)</u>	<u>(\$95,046)</u>
FTE Change - DSS, DLS	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$387,786)</u>	<u>(\$94,061)</u>	<u>(\$95,046)</u>
Estimated Net FTE Change on the General Revenue Fund	1 FTE	1 FTE	1 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2021 (10 Mo.)	 FY 2022	 FY 2023
	<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 "Foster Parents' Bill of Rights" to require the Children's Division and its contractors to provide written notification of these rights at the time the child is placed with a prospective foster parent, even if the parent has yet to be licensed as a foster parent. Additionally, the Division and its contractors shall provide full access to the child's medical, psychological, and psychiatric records, including records prior to the child coming into care, at the time the child is placed with a foster parent. Access shall include providing information and authorization for foster parents to review or to obtain the records directly from the service provider.

FISCAL DESCRIPTION (continued)

If a foster parent alleges a court failed to allow the foster parent to be heard orally or in writing in a court hearing involving a child in his or her care, the foster parent may seek remedial writ relief pursuant to Missouri Supreme Court Rules 84, 94, and 97. No docket fee shall be required to be paid by the foster parent. The Division shall not remove a child from placement with the foster parent based solely upon the foster parent's filing of a petition for a remedial writ or while the writ is pending, unless removal is necessary for the health and safety of the child.

Additionally, the court shall ensure a child's foster parent has received full access to the child's medical, psychological, and psychiatric records, including prior records, from the Division and its contractors, as required under this act.

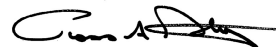
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Department of Social Services
Joint Committee on Administrative Rules
Office of Administration, Commissioner's Office
Office of State Courts Administrator
Office of Secretary of State



Julie Morff
Director
May 12, 2020



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