

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3423-06  
Bill No.: Truly Agreed To and Finally Passed 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: June 1, 2020

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(\$156,936)	(\$94,061)	(\$95,046)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$156,936)</b>	<b>(\$94,061)</b>	<b>(\$95,046)</b>

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

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 13 pages.

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

\* Income and costs could exceed \$200,000 and net to \$0 in FY 21 exclusively.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	1 FTE	1 FTE	1 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

## FISCAL ANALYSIS

### ASSUMPTION

#### §210.112 - DSS services to children and child placement provisions

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.

The **Office of Administration (OA), Information Technology Services Division (ITSD)/DSS** states §210.112; 210.123 and 210.145 of the proposed legislation will result in required updates to the Family And Children Electronic System (FACES).

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.

ASSUMPTION (continued)

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** split 25% GR; 75% Federal (\$76,950 GR; \$230,850 Federal).

**Oversight** notes that ITSD had previously assumed the programming costs (\$307,800) would be paid entirely from General Revenue Funds. DSS-ITSD has updated their assumptions for this TAFP fiscal note to reflect a Federal/State split of the programming costs.

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

**CD** states this section of the proposal specifies "Identifying information" may be shared only if CD reasonably believes the receiving entity will prevent the unauthorized dissemination of the information contained therein. 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

**CD** states 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.

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.

ASSUMPTION (continued)

**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

**CD** states §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

Officials from **CD** state §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:

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:

ASSUMPTION (continued)

- 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.

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.

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.

ASSUMPTION (continued)

**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

**CD** states 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.

Officials from the **OA, ITSD/DSS** state 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

**CD** states §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.

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.

ASSUMPTION (continued)

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.

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



ASSUMPTION (continued)

§211.171 - Foster parent access to certain foster children records

**CD** states 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

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.

Officials from the **Office of Administration, Office of Child Advocate** 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.

ASSUMPTION (continued)

Officials at the **OA, Division of Budget and Planning (B&P)** assume this proposal would have no direct impact to B&P, would not impact General and Total State Revenue or impact the calculation pursuant to Article X, Section 18(e).

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact assumed by B&P 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.

Officials from the **Office of the Secretary of State (SOS)** assume 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 **Department of Elementary and Secondary Education** state 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
<b>GENERAL REVENUE FUND</b>			
<u>Costs</u> - OA, ITSD/DSS (§§210.112; 210.123 and 210.145) FACES system changes pp. 3-4	(\$76,950)	\$0	\$0
<u>Costs</u> - DSS (§211.135) p. 8			
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</u> - DSS	(\$79,986)	(\$94,061)	(\$95,046)
FTE Change - DSS, DLS	1 FTE	1 FTE	1 FTE
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(\$156,936)</u></b>	<b><u>(\$94,061)</u></b>	<b><u>(\$95,046)</u></b>
Estimated Net FTE Change on the General Revenue Fund	1 FTE	1 FTE	1 FTE
<b>FEDERAL FUNDS</b>			
<u>Income</u> - OA, ITSD/DSS (§§210.112; 210.123 and 210.145) FACES system changes reimbursement pp. 3-4	\$230,850	\$0	\$0
<u>Costs</u> - OA, ITSD/DSS (§§210.112; 210.123 and 210.145) FACES system changes pp. 3-4	(\$230,850)	\$0	\$0
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2021 (10 Mo.)	 FY 2022	 FY 2023
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION

#### DATA SHARING

This bill allows the Children's Division within the Missouri Department of Social Services to exchange electronic reports and share data with any entity as needed to protect children and access other social services. The department is required to implement a system allowing the electronic exchange of such data by August 28, 2020 (§§210.116 and 210.652, RSMo).

#### CHILD PROTECTION AND CASE MANAGEMENT

This bill requires the division to complete a standard risk assessment within 72 hours of a report of abuse or neglect as part of its structured decision-making protocols. The division and the Office of the State Court Administrator shall develop a joint safety assessment tool before December 31, 2020 to replace the current risk assessment. The safety assessment tool must be implemented before January 1, 2022.

The bill elaborates on the principles guiding the child protection system to prioritize home and community-based services and supports successful outcomes. The department is required to create a response and evaluation team that reviews and evaluates the practice of the division and any contractors. This system will be used to support contract negotiations, placement and referrals, and enhanced payments.

Finally, the bill creates new procedures for "temporary alternative placement agreements" that allow voluntary placement of a child with a relative in cases where a parent is temporarily unable to care for a child but removal from the home, through court action, is not appropriate (§§210.112; 210.123 and 210.145).

This bill 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. The bill also requires the court to allow foster parents to testify in any proceedings involving a child in their care and if not given that opportunity, they may seek remedial writ

FISCAL DESCRIPTION (continued)

relief pursuant to Missouri Supreme Court Rules 84, 94, and 97. No docket fee shall be required to be paid by the foster parent and 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.

The bill also prohibits the division from requiring foster parents to conduct or be present for supervised visits with a child in their care and states that the court shall only require a child to appear in court if necessary for making a decision and after considering all of the information provided by the division and family support team, the appropriateness of the courtroom environment, and the hardship to the child and current guardians (§§210.566; 211.135 and 211.171).


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 - Division of Budget and Planning  
- Office of Child Advocate  
Office of State Courts Administrator  
Office of Secretary of State



Julie Morff  
Director  
June 1, 2020



Ross Strope  
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June 1, 2020