

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4696-01  
Bill No.: SB 824  
Subject: Courts, Juveniles; Courts; Crimes and Punishment  
Type: Original  
Date: February 14, 2020

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Bill Summary: This proposal modifies offenses for juveniles being tried as adults to include unlawful use of a weapon and armed criminal action.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(Could exceed \$1,381,393)	(Could exceed \$2,217,163)	(Could exceed \$2,240,126)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Could exceed \$1,381,393)</b>	<b>(Could exceed \$2,217,163)</b>	<b>(Could exceed \$2,240,126)</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 9 pages.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
General Revenue	29 FTE	29 FTE	29 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>29 FTE</b>	<b>29 FTE</b>	<b>29 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>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Corrections (DOC)** assume this proposal modifies offenses for juveniles being tried as adults to include unlawful use of a weapon and armed criminal action.

The proposed legislation does not provide any new penalties or offenses, but increases the likelihood that a juvenile could be transferred to a court of general jurisdiction and sentenced there under section 571.015 and/or section 571.030. It is unknown how many juveniles will be transferred to a court of general jurisdiction; therefore, the department will have to assume an unknown fiscal impact.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect DOC's unknown cost for the proposal.

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 Juvenile indigent persons are faced with the potential certification to courts of general jurisdiction rather than a juvenile proceeding for the charged offense of unlawful use of a weapon. 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 \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). 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.

ASSUMPTION (continued)

**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 at the **Department of Social Services (DSS)** assumes the following:

**Division of Legal Services (DLS)**

§211.071.1—this bill adds two new offenses, any offense under 571.030 (unlawful use of a weapon) and any offense under 571.015 (armed criminal action).

§211.071.12—the addition of these two new offenses will be effective on January 1, 2021.

The Division of Youth Services has estimated that this bill will increase the total number of youth screened for the dual jurisdiction program, as well as increase the number of youth committed to the dual jurisdiction program. If these numbers increase, the involvement of Division of Legal Services (DLS) litigation attorneys will also increase as DLS must file motions to extend custody pursuant to §211.073.4 as well as motions to petition the court for a hearing before it releases a youth pursuant to §211.073.5 as the youth is about to turn twenty-one, or pursuant to §211.073.3, because the youth is beyond the scope of DYS' treatment.

The involvement of DLS will increase in equal proportion to the number of additional DYS commitments. The number of hours required by DLS litigation per case is highly dependent on the circuit court location and if all parties will consent to orders without the attorney's appearance. Based off of DLS litigation attorney's estimations, each extension motion can be completed in an average of eight hours (including drafting time, preparation time, time communicating with the other parties, travel time, and court appearance time). Each motion to release depends on the circuit court location and if the motion is contested. These proceedings may take, on average, sixteen hours to complete (including drafting time, preparation time, time communicating with the other parties, travel time, and court appearance time). In order to accommodate the increased workload, DLS is estimating the need of one FTE Attorney.

**Children's Division (CD)**

The Children's Division does not anticipate a fiscal or programmatic impact as a result of this legislation.

ASSUMPTION (continued)

**Division of Youth Services (DYS)**

SB 824 modifies section 211.071 by adding language that includes any offenses under section 571.030; felony and misdemeanor, and any offenses under section 571.015; felony and misdemeanor, as offenses that require the court to order a hearing to determine if a child will be transferred to a court of general jurisdiction for prosecution under the general law. The division anticipates that enactment of this proposal will have fiscal impact to our dual jurisdiction program as outlined below.

**Dual Jurisdiction Commitments:**

Information received from the Office of State Courts Administrator indicates that in CY 19, the offenses outlined in this proposal under section 571.030 and section 571.015 would account for an additional 307 orders for certification hearings.

Of those 307 offenses, 92 of those are misdemeanors. **The division assumes the 92 misdemeanors would not result in certifications.**

In CY19, there were 87 orders for certification hearings under current statute. In CY19, 41 of 87 (47%) of certification hearings held resulted in certification of the youth. The division has averaged 11 ordered assessments (\*22%) annually of youth certified, for entry into the dual jurisdiction program. Those assessments resulted in an average of 8 (73%) admissions into the dual jurisdiction program.

\*numbers are based on a five year average

Enactment of SB 824, would result in an increase of 16 dual jurisdiction commitments annually. Given the average rate of existing annual commitments, the division anticipates the total number of dual jurisdiction commitments to grow to 24 youth per year with average lengths of stay projected to be three years.

ASSUMPTION (continued)

**Projection:**

307 (new required hearings) -92 (misdemeanor offenses) = 215 (new possible cohort of certifications)

- 215 x 47% (certification rate) = 101 new certifications annually
- 101 x 22%(dual jurisdiction assessment ordered rate) = 22 new dual jurisdiction assessments ordered annually
- 22 x 73% (program admissions rate)= 16 youth admitted to dual jurisdiction annually under this proposal

16 (new youth admitted to DJ program under this proposal)  
 + 8 (existing average rate of admittance to DJ program)  
 24 total youth admitted to DJ program annually

The division has forty beds designated for service to dual jurisdiction youth. Twenty-three of those beds are occupied by dual jurisdiction youth committed under the existing law with average lengths of stay of 4 years. Given the new legislation passed in SFY19, raising the age of criminal majority to 18 effective January 1, 2021, the division anticipates that the average age of the dual jurisdiction population would increase causing the average length of stay of the new population to decrease to three years. Under this proposal, 24 total youth would be accepted and committed into the dual jurisdiction program annually, at an average length of stay of 3 years, creating a need for 65 secure beds at the peak of the cycle in SFY 23. In SFY 24, the final five dual jurisdiction youth with a four year average length of stay will exit. Sixty dual jurisdiction secure beds will be necessary thereafter.

	FY21 (6-Months)	FY22	FY23	FY24
Existing DJ Youth	23+12*-6	29+24-6	47+24-6	65+24-24-5
+New DJ youth-anticipated DY				
Youth exits				
DJ Beds Needed	29	47	65	60

\*FY21 reflects rate at 6 months due to January 1, 2021 enactment

ASSUMPTION (continued)

DYS will place the need at 65 total beds to adequately serve this population under this proposal. The division currently has 40 designated beds; therefore, would need 25 additional secure beds for dual jurisdiction youth.

The division has existing physical plant space at Hillsboro Treatment Center to respond immediately to this proposal. The division would need to re-open two unfunded groups (that are currently closed) to meet the projected needs for growth within the dual jurisdiction program. However staffing at this facility remains a challenge and the unknown locations of additional commitments would most likely result in youth being moved farther from home than preferred to allow for family engagement. The ultimate and long term plan would be to evaluate the need based on the outcomes of judicial behavior and impact of the implementation of the raise the age legislation.

The division anticipates a fiscal impact of \$1,228,875 for FY21 (6 months) and then around \$2 million on-going which includes 28 FTE to reopen programs needed to accommodate these youth.

FTE Breakdown: (1) Social Services Manager (Youth Facility Manager IV); (2) Group Leader; (20) Youth Specialist II; (3) Special Education Teacher III; (1) Cook II; (1) Social Services Manager = 28 FTE.

Projections for the dual jurisdiction program are based on the current landscape of judicial and prosecuting behavior. Historically, courts use of the dual jurisdiction program has been dynamic; therefore, assessment and acceptance rates are based on five year averages. The recent passing of the raise-the-age legislation also makes projections a challenge as this legislation will produce an older cohort of youth that will most likely result in the need for additional secure bed space similar to the need for dual jurisdiction youth.

The division acknowledges the situation remains unpredictable especially given the impact of the raise-the-age legislation; however, we do believe these are real scenarios that would result in the need to provide for additional secure beds for the dual jurisdiction program under this proposal.

**Oversight** notes in DSS's response for FY 2021, part of the expenditures were duplicated of \$4,228 and will adjust this amount in their costs below. Oversight does not have any information to the contrary. Therefore, Oversight will reflect the cost estimated by DSS less the duplicate amount in the proposal.

ASSUMPTION (continued)

**Oversight** did not request information from the Office of Administration regarding office space that DSS is requesting. Oversight will contact the Office of Administration and update any changes to any future fiscal notes.

Officials at the **Office of the State Courts Administrator**, the **Office of the Attorney General** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

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

<u>FISCAL IMPACT - State Government</u>	FY 2021 (6 Mo.)	FY 2022	FY 2023
<b>GENERAL REVENUE</b>			
<u>Cost</u> - DOC - increase in juveniles prosecuted and sentenced	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - SPD - Salaries, fringe benefits, and equipment and expense	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs - DSS</u>			
Personal Services	(\$535,463)	(\$1,081,635)	(\$1,092,452)
Fringe Benefits	(\$344,867)	(\$693,291)	(\$696,883)
Equipment	(\$14,260)	\$0	\$0
One-Time Facility Expenses	(\$219,858)	\$0	\$0
On-going expenses for Residential	(\$58,000)	(\$118,900)	(\$121,873)
On-going expenses per FTE	(\$108,945)	(\$223,337)	(\$228,918)
<u>Total Costs - DSS</u>	<u>(\$1,281,393)</u>	<u>(\$2,117,163)</u>	<u>(\$2,140,126)</u>
FTE Change - DSS	29 FTE	29 FTE	29 FTE
 <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	 <b>(Could exceed <u>\$1,381,393</u>)</b>	 <b>(Could exceed <u>\$2,217,163</u>)</b>	 <b>(Could exceed <u>\$2,240,126</u>)</b>
 Estimated Net FTE Change for General Revenue Fund	 29 FTE	 29 FTE	 29 FTE



FISCAL IMPACT - Local Government

FY 2021  
(6 Mo.)

FY 2022

FY 2023

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Under this act, a child between the ages of 12 and 18 years may be tried in a court of general jurisdiction and prosecuted under general law for the offenses of unlawful use of weapons and armed criminal action. The provisions of this act shall be effective January 1, 2021.

Additionally, this act terminates the duplicate law effective December 31, 2020.

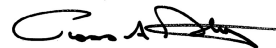
This legislation is not federally mandated, would not duplicate any other program but may require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections  
Office of the State Public Defender  
Department of Social Services  
Office of the State Courts Administrator  
Office of the Attorney General  
Office of Prosecution Services



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February 14, 2020



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