

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4097S.05T
Bill No.: Truly Agreed To and Finally Passed SS for SCS for SB 683
Subject: Children and Minors; Department of Elementary and Secondary Education;
Department of Health and Senior Services; Department of Social Services
Type: Original
Date: June 6, 2022

Bill Summary: This proposal modifies provisions relating to child care.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	(Could exceed \$1,372,669)	(Could exceed \$1,685,656)	(Could exceed \$2,057,486)
Total Estimated Net Effect on General Revenue	(Could exceed \$1,372,669)	(Could exceed \$1,685,656)	(Could exceed \$2,057,486)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Correctional Center Nursery Program*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*Income, transfer-in from GR and costs net to \$0.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue	14 FTE	14 FTE	14 FTE
Correctional Center Nursery Program	1 FTE	8 FTE	8 FTE
Total Estimated Net Effect on FTE	15 FTE	22 FTE	22 FTE

- ☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§208.044, 208.046, 208.053, 210.027, 210.201, 210.102, 210.203, 210.211, 210.221, 210.223, 210.231, 210.241, 210.245, 210.251, 210.252, 210.254, 210.255, 210.256, 210.258, 210.275, 210.278, 210.1007, and 210.1080 – Provisions relating to child care

Officials from the **Office of Attorney General (AGO)** assume any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the proposal will have no 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 DESE for these sections.

Officials from the **Department of Health and Senior Services (DHSS)** defer to DESE for a response regarding the potential fiscal impact of this proposal on their organization.

Oversight notes §210.211 has an emergency clause.

§§210.127, 210.305 and 210.565 – “Diligent search” for relatives of foster children

Officials from the **Department of Social Services (DSS), Children’s Division (CD)** state the Children’s Division 2020 Annual Report indicated that 6,912 children came into or re-entered foster care, which would require the diligent search proposed in this legislation. As a result, CD anticipates needing 12 FTE total (2 Associate Social Services Specialists per region * 6 regions in the state) in order to carry out diligent searches.

DSS estimates the cost of 12 Associate Social Services Specialists with a starting salary of \$37,346 will cost approximately \$780,000 per year in personal service and fringe benefits plus other expenses; 100% General Revenue. **Oversight** does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the DSS/CD.

Officials from the **DSS, Division of Legal Services (DLS)** anticipate a fiscal impact to DLS that could be covered by two (2) attorneys. DLS believes the bill will generate additional CD requests for assistance from DLS litigation or permanency attorneys in seeking judicial orders releasing CD from “diligent search” efforts. DLS notes the legislation could have a significant fiscal impact on CD because the bill would dramatically expand CD’s duties to identify and locate biological parents, grandparents, and “relatives” (with “relatives” likely including all persons related by blood or affinity and all persons with a close relationship to the child or the child's family); makes several search-effort duties ongoing until a court excuses search efforts or such persons are located and identified (and in some cases until the child is placed with a relative); and requires CD report its efforts to locate and identify such persons at each court hearing until excused by the court or the child’s “relatives” are located. In addition, the bill could increase the number of potential placement “relatives” for which background checks would need to be conducted.

DSS estimates the cost of 2 Attorneys with a starting salary of \$65,410 will cost approximately \$200,000 per year in personal service and fringe benefits plus other expenses; 100% GR.

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the DSS/DLS.

§§217.940, 217.941, 217.942, 217.943, 217.944, 217.945, 217.946, and 217.947 – Correctional Center Nursery Program

Officials from the **Department of Corrections (DOC)** state this bill establishes a Correctional Center Nursery Program that will allow the department to house eligible inmates and children born to them while in the custody of the department for a period of up to 18 months. The program must be in operation no later than July 1, 2025. While the bill provides the department discretion to determine program eligibility criteria, it does list some specific eligibility requirements. The bill also establishes a new fund in the state treasury to collect appropriations, donations, and any support or public assistance funds received on behalf of the mother.

Potential Number of Eligible Program Participants:

In 2020, a total of 26 women gave birth while in the department's custody. Of that number, 11 had drug offenses, 6 had nonviolent offenses, 1 had a sex offense, and 7 had violent offenses. Twenty-two of the 26 women have been released from custody as of 12/1/21, the average post-delivery time served was 2.32 months.

In 2021, a total of 25 women gave birth while in the department's custody (as of 12/1/21). Of that number, 10 had drug offenses, 13 had nonviolent offenses, and 2 had violent offenses. Fifteen of the 25 women have been released from custody as of 12/1/21, the average post-delivery time served was 3.1 months.

Identifiable Costs:

The costs depend significantly based on the size of the program. Based on the potential number of eligible female offenders discussed above, the department anticipates that the conversion of one wing of one housing unit to establish a seven-bed capacity nursery wing will likely meet the capacity needs of the program due to the typically short stays of the offenders post-delivery. However, please note there may be instances where capacity limits delay or prevent a women's ability to enter the program. Based on the scenario of converting one wing of one housing unit the costs would be:

7-Bed Unit:

One-Time Costs:	
\$14,000	Furnishings/equipment/toys
\$190,832	One-Time conversion
\$26,887	Vehicle (7 passenger minivan) for appointments, etc.
\$16,000	Startup for staff – uniforms, office furniture, etc.
\$247,719	Total One-Time Costs
On-Going Costs:	
\$112,000	On-Going Operating Cost (formula, diapers, pump, etc.) (\$16k/year/bed)
\$100,000	Contract Pediatrician Services
\$8,400	Caregiver wages (\$100/month, per caregiver, 7 caregivers)
\$140,000	Reentry Services (\$5,000 per mother/child at 28 women per year)
\$315,246	Staff PS 8 FTE (5 Correctional Officers I, 2 Correctional Case Managers, 1 Functional Unit Manager/Program Administrator)
\$224,046	Staff fringe
\$899,692	Total On-Going Costs

Given the delayed implementation date, the costs listed will be phased over the first three fiscal years.

Year 1:

- \$247,719 – one-time startup costs to convert and equip the housing unit wing
- \$47,252 Personal Services and one (1) FTE as the Program Administrator
- \$30,635 Staff fringe
- **\$325,606 Total**

Year 2:

- \$323,127 Personal Services and eight (8) FTE* ($\$315,246 \times 1.025$)
- \$229,647 Staff fringe* ($\$224,046 \times 1.025$)
- **\$552,774 Total**

Year 3 and on-going:

- \$323,127 Personal Services and eight (8) FTE
- \$229,647 Staff fringe
- \$360,400 Expense and equipment for program operating costs
- **\$913,174 Total**

***Oversight** notes these costs include an inflation rate of 2.5 percent in year 2; however, DOC did not apply the inflation rate for year 3 and on-going.

DOC notes the bill establishes a new fund in the state treasury to collect appropriations, donations, and assistance payments from supporting parties or public assistance programs. It is

unknown if the revenues into this fund would be sufficient to fund the on-going operating costs of the program.

The bill also specifies that financial support for the mother/child is to be forwarded to the department to deposit into the mother's inmate banking account.

Unknown costs:

Legal liability for damages or injury to the child. Section 537.600, RSMo, grants the state of Missouri sovereign immunity from liability and suit for negligent acts or omissions. However, that statute includes two exemptions:

- when there are injuries directly resulting from the negligent acts or omissions by public employees arising out of the operation of a motor or motorized vehicle within the course of their employment, and
- when injuries are caused by the condition of a public entity's property if the plaintiff establishes that the property was in "dangerous condition" at the time of the injury, that the injury directly resulted from the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of harm of the kind of injury which was incurred, and that either a negligent or wrongful act or omission of an employee within the course of his employment created the dangerous condition or the public entity had actual or constructive notice of the dangerous condition in sufficient time prior to injury to have taken measures to protect against the dangerous condition.

The DOC operates and maintains prisons. These prisons are not built for babies. They are institutional buildings built of concrete and steel with heavy locking doors, heavy furniture, and numerous features that could constitute a "dangerous condition" for a baby. Further, these prisons house violent offenders who have already admitted to or been proven guilty of committing bodily harm on others. There are only so many mitigating actions the department can take to make a prison "baby-safe" and still maintain the security of the facility. The potential legal exposure to the state of housing a baby in an adult correctional center represents an unknown potential cost to the state.

Custody of child. The bill states in §217.1050.3 that "neither the inmate's participation in the program nor any provisions of [the law] shall affect, modify or interfere with the inmate's custodial rights to the child nor does it establish legal custody of the child with the department." This language means that the mother, and possibly another person, could have legal custody of the child and the authority to make all decisions regarding the child's health and welfare. The DOC will have no legal authority to make those decisions and it is probable that issues will arise for department staff overseeing the program.

For example, if staff observe the child is in need of medical care but the mother refuses to accept medical treatment for the child's distress, it is unclear on whether the department could be legally liable to the child. On the flip side, what if mom thinks the child needs to go to the doctor or urgent care (accompanied by mom) every time they have a fever – is the department required to allow her to make those decisions, and therefore, leave the institution whenever she

claims it is medically necessary for the child? The department is unclear of the legal implications of having legal custody over the mother, but not of the child that the mother has legal custody of and is the primary caregiver. These issues represent a potential unknown cost to the state.

The department has and continues to reach out to other states that have similar programs within their correctional centers. As the DOC continues to learn more from the operational and policy experience of the other states, the operational approach (and, therefore, cost projections) may be changed going forward.

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's estimated impact for fiscal note purposes, including the potential unknown liability costs.

Oversight notes §217.945 establishes a new fund from moneys collected under this section and §217.944 as well as any appropriations made by the General Assembly, gifts, grants, or donations. Oversight assumes an unknown income to the Correctional Center Nursery Program Fund from gifts, grants, or donations. For fiscal note purposes, Oversight assumes services provided under this proposal will equal income/appropriations and net to zero.

Oversight notes the Division of Child Support Enforcement will forward support payments to the DOC for deposit into the inmate's banking account as outlined in §217.944.

Oversight states, according to [The Benefits of Prison Nursery Programs](#), nine states currently operate prison nursery programs—California, Illinois, Indiana, Nebraska, New York, Ohio, South Dakota, Washington, and West Virginia.

Bill as a whole

Officials from the **Office of Administration - Administrative Hearing Commission**, the **Department of Public Safety - Missouri Highway Patrol**, the **Office of Administration**, the **Kansas City Health Department**, the **Newton County Health Department**, the **St. Louis County Health Department**, the **Office of the State Treasurer** and **Office of the State Courts Administrator** each assume the proposal will have no 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.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note 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 its 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 only reflects the responses received from state agencies and political subdivisions; however, other local public health agencies were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023	FY 2024	FY 2025
GENERAL REVENUE			
<u>Costs – DSS/CD (§§210.127; 210.305 and 210.565) p. 3-4</u>			
Personal service	(\$373,460)	(\$452,634)	(\$457,160)
Fringe benefits	(\$273,154)	(\$329,287)	(\$330,804)
Equipment and expense	(\$211,223)	(\$129,514)	(\$132,751)
Total Costs -	(\$857,837)	(\$911,435)	(\$920,715)
FTE Changes	12 FTE	12 FTE	12 FTE
<u>Costs – DSS/DLS (§§210.127; 210.305 and 210.565) p. 3-4</u>			
Personal service	(\$109,017)	(\$132,128)	(\$133,449)
Fringe benefits	(\$61,204)	(\$73,883)	(\$74,326)
Equipment and expense	(\$19,005)	(\$15,436)	(\$15,822)
Total Costs -	(\$189,226)	(\$221,447)	(\$223,597)
FTE Changes	2 FTE	2 FTE	2 FTE
<u>Transfer Out – To the Correctional Center Nursery Program Fund (§§217.940 through 217.947) p. 4-7</u>	<u>(Could exceed \$325,606)</u>	<u>(Could exceed \$552,774)</u>	<u>(Could exceed \$913,174)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Could exceed \$1,372,669)</u>	<u>(Could exceed \$1,685,656)</u>	<u>(Could exceed \$2,057,486)</u>
Estimated Net FTE Change on the General Revenue Fund	14 FTE	14 FTE	14 FTE
<u>FISCAL IMPACT – State Government</u>	FY 2023	FY 2024	FY 2025
CORRECTIONAL CENTER NURSERY PROGRAM FUND			
<u>Income – Gifts, grants, donations (§§217.940 through 217.947) p. 4-7</u>	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

<u>Transfer In</u> – From General Revenue Fund (§§217.940 through 217.947) p. 4-7	\$325,606	\$552,774	\$913,174
<u>Cost</u> – DOC (§§217.940 through 217.947) Nursery program, includes costs for FTE p. 4-7	(\$325,606)	(\$552,774)	(\$913,174)
FTE Change – DOC	1 FTE	8 FTE	8 FTE
ESTIMATED NET EFFECT ON THE CORRECTIONAL CENTER NURSERY PROGRAM FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change to the Correctional Center Nursery Program Fund	1 FTE	8 FTE	8 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2023	FY 2024	FY 2025
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

This proposal may have an impact on small business child care facilities. (§210.211)

FISCAL DESCRIPTION

This act modifies current law relating to child care subsidies and child care facility licensing by transferring supervision and implementation authority from the Department of Social Services and the Department of Health and Senior Services to the Department of Elementary and Secondary Education pursuant to the Governor's Executive Order creating the Office of Childhood within the Department of Elementary and Secondary Education.

This act excludes from the number of children counted toward the maximum number of children for which a family child care home is licensed up to two children who are five years or older and who are related within the third degree of consanguinity or affinity to, adopted by, or under court

appointed guardianship or legal custody of a child care provider who is responsible for the daily operation of a licensed family child care home organized as a legal entity in Missouri. If more than one member of the legal entity is responsible for the daily operation of the family child care home, then the related children of only one such member shall be excluded. A family child care home caring for such children shall provide notice to parents or guardians as specified in the act. Additionally, nothing in the act shall prohibit the Department of Elementary and Secondary Education from enforcing existing licensing regulations, including supervision requirements and capacity limitations based on the amount of child care space available.

Under current law, the Children's Division shall conduct a diligent search for the biological parent or parents of a child in the custody of the Division if the location or identity of such parent or parents is unknown. This act requires such search to be active, thorough, and timely and if a child is removed from a home and placed in the custody of the Division, the search shall be conducted immediately following the removal of a child.

Additionally, current law requires the Division to immediately begin diligent efforts to locate and place a child with a suitable grandparent when an initial emergency placement of a child is deemed necessary. This act changes "diligent efforts" to "diligent search" and expands the search to include relatives other than grandparents. A diligent search for relatives shall occur within thirty days from the time the emergency placement is deemed necessary for the child. The Division shall continue to search for suitable relatives for the child's placement until a suitable relative is identified and located or the court excuses further search.

Finally, whenever a court determines that a foster home placement with a child's relative is appropriate, the Division shall complete a diligent search to locate and notify the child's grandparents, adult siblings, parents of siblings, and all other relatives of the child's possible placement.

This proposal has an emergency clause for §210.211.

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

Attorney General's Office
Office of Administration - Administrative Hearing Commission
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Department of Social Services
Office of Administration
Office of the Secretary of State

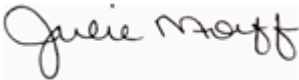
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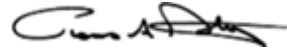
Kansas City Health Department
Newton County Health Department
St. Louis County Health Department
Joint Committee on Administrative Rules
Office of the State Treasurer
Office of the State Courts Administrator



Julie Morff

Director

June 6, 2022



Ross Strobe

Assistant Director

June 6, 2022