

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0495S.04T
 Bill No.: Truly Agreed To and Finally Passed CCS for SB 28
 Subject: Highway Patrol; Public Records, Public Meetings; Roads and Highways; Children and Minors; Victims of Crime
 Type: Original
 Date: June 7, 2023

Bill Summary: This proposal modifies provisions relating to access to certain records.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
Highway Patrol Traffic Records Fund (0758)*	\$0 to \$250	\$0 to \$25,250	\$0 to \$30,250	\$0 to \$120,250
Criminal Record System Fund (0671)	Less than \$165,000	Less than \$198,000	Less than \$198,000	Less than \$198,000
Total Estimated Net Effect on Other State Funds	Less than \$165,250	Less than \$223,250	Less than \$228,250	Less than \$318,250

*The MHP is allowed to increase certain fees by \$1 every other year up to a maximum fee of ten dollars. The proposal is permissive (may); therefore, Oversight reflects the impact as "\$0 to". Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
Total Estimated Net Effect on FTE	0	0	0	0

- 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 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§43.253 – Fees paid to the Missouri State Highway Patrol

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** assume this legislation would add language to §43.253, RSMo, to allow the MHP to charge a minimum fee of \$6 to disseminate records requests. The proposal does not mandate a minimum \$6 fee be imposed; it simply allows for such. Allowing a minimum \$6 fee for duplication of records disseminated upon request would authorize the Patrol to raise the crash report fee from the current price of \$5.99 to \$6.00. The Superintendent of the Missouri State Highway Patrol would be allowed to increase the minimum fee described in this section by not more than one dollar every other year following this section's effective date, up to a maximum of ten dollars. The Patrol Records Division disseminates approximately 30,000 crash reports per year. Fees for this service are collected and deposited into the Traffic Records Fund (0758).

Any funding increase realized by the Traffic Records Fund will be reinvested in an electronic report dissemination software. This enhancement will allow individuals to request, purchase, and receive records requests through an electronic portal.

Oversight notes the increased revenue could be realized if fees are increased to their maximum allowable amount (every other year):

FY24 Based on 10/12 rule
Traffic Crash Reports
 $(30,000 \times .08333 =) 25,000$ traffic crash reports x \$.01 fee increase (**fee at \$6**) = \$250

FY25 Based on 10/12 rule
Traffic Crash Reports
 $(30,000 \times .08333 =) 25,000$ traffic crash reports x \$1 increase (**fee at \$7**) = \$25,000

FY26 Traffic Crash Reports
 $30,000 \times \$1$ increase (**fee at \$7**) = \$5,000 [Full year (\$30,000 - \$25,000)]

FY27 Traffic Crash Reports
 $30,000 \times \$1$ increase (**fee at \$8**) = \$30,000

FY29 Traffic Crash Reports
 $30,000 \times \$1$ increase (**fee at \$9**) = \$30,000

FY31 Traffic Crash Reports
 $30,000 \times \$1$ increase (**fee at \$10**) = \$30,000

Oversight notes the increase in fees will result in the revenue from these fees compounding over the years from FY24 through FY31 as shown below:

$\$250$ (FY24) + $\$25,000$ (FY25) + $\$5,000$ (FY26) + $30,000$ (FY27) + $\$30,000$ (FY29)
+ $\$30,000$ (FY31) = $\$120,250$ (Traffic Fund)

Oversight also notes the revenue presented for FY31 was determined under the assumption that the MHP will increase the minimum fee as outlined in this proposal (additional \$1 every other year).

However, because this proposal is permissive, Oversight will range the revenue from \$0 (no increase in fees) to the estimate of \$120,250 (fee not to exceed \$10) to the Highway Patrol Traffic Records Fund for fiscal note purposes.

Officials from the **Office of Administration - Budget and Planning** defer to the **Missouri Highway Patrol** for the potential fiscal impact of this proposal.

§§43.539 and 43.540 – Missouri Rap Back Program

MHP assumes the proposal will have no fiscal impact on their organization.

In response to similar legislation from 2023 (HB 70), the **Missouri Highway Patrol** stated, upon further inquiry, the impact to the Criminal Record System fund is unknown.

Oversight will show a range of impact to the Criminal Record System fund of \$0 to an unknown loss from foregone fees for criminal record reviews. Oversight is uncertain how many criminal record reviews are completed due to the six-year requirement; however, Oversight does not anticipate the impact to exceed the \$250,000 threshold.

§105.1500 – Personal Privacy Protection Act

Officials from the **Office of Administration (OA)** assume the proposed legislation would have a positive impact on OA Division of Purchasing as it would allow for the public to once again access needed procurement records on the Awarded Bid and Contract Document Search Website and MissouriBUYS Contract Board rather than having to submit an open records request to OA Purchasing in order to gain access to do so. This would reduce the number of open record requests received and reduce the number of hours needed by OA Purchasing to review bid and contract files for any personal information of a 501(c) entity in the requested records and in bid files prior to award and in prior bid and contract files prior to the new solicitation's issuance and to redact such before providing the bid and contract documents to the public in order to maintain compliance with the provisions of section 105.1500, RSMo.

While there would not be a direct monetary savings to OA Purchasing, the proposed legislation

would avoid Purchasing having to divert resources to completing the records reviews and redactions.

Oversight does not have any information contrary to that provided by OA. Therefore, Oversight will reflect a zero impact for this section for fiscal note purposes.

This part of the proposal contains an emergency clause.

§193.265 –Vital records for victims of domestic violence/abuse

Officials from the **Department of Health and Senior Services (DHSS)** state §193.265.6 of this proposed legislation states no fee shall be required or collected for a certification of birth if the request is made by a victim of domestic violence or abuse, as defined in §455.010 RSMo, and if the victim provides documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a health care or mental health care professional, from whom the victim has sought assistance relating to the domestic violence or abuse. The victim may only be eligible one time for a fee waiver under this subsection.

Per Missouri Coalition Against Domestic and Sexual Violence (MCADS) and the National Coalition Against Domestic Violence (NCADV) 2019 statistical data, domestic violence programs served 36,304 Missourians with over 26,000 requests for services going unmet due to a lack of resources. Therefore, a **total number** equaling more than **62,304**.

There is no estimate of how many of these individuals will request birth certificates. Requests could range from 0% to 100% issuance of approximately 62,304 certificates. Each certificate costs \$15. Therefore, the total loss of revenue for the issuance of requests at 100% would be equivalent to \$778,800 for FY 24; \$934,560 for FY 25; and \$934,560 for FY 26. Birth certificates have a current fee split of \$5 per certificate to the Children's Trust Fund; \$5 to the Missouri Public Health Services (MOPHS) Fund; \$4 to General Revenue; and \$1 to the Endowed Care Cemetery Fund.

Moreover, these types of requests typically take more time than regular requests. Many of these applications come with incomplete information, which makes the match more difficult and takes more time in processing. If a match does not result in the issuance of a certified copy, a search fee is not collected as it is from the general public. DHSS expects the number of requests to increase and the loss of revenue and lack of adequate staff to be an issue for program operations. The Department would request a range of one (1) to up to seven (7) FTE to account for the deficiency in staffing depending on how much the work load increases. FTE count comes from the calculation of a fifteen (15) minute application review, processing, and issuance time average with 2,080 working hours per annum, which equals 8,320 applications, processed per FTE.

Oversight notes, based on DHSS calculations, the loss of revenue to the various state funds impacted by this proposal are estimated to be:

Fund Name	FY 2024 (10 mos.)	FY 2025	FY 2026
General Revenue (\$4)	\$207,680	\$249,216	\$249,216
Children’s Trust Fund (\$5)	\$259,600	\$311,520	\$311,520
MOPHS Fund (\$5)	\$259,600	\$311,520	\$311,520
Endowed Care Cemetery Audit Fund (\$1)	\$51,920	\$62,304	\$62,304
TOTAL	\$778,800	\$934,560	\$934,560

General Revenue	62,304* \$4 = \$249,216
Children’s Trust	62,304* \$5 = \$311,520
Endowed Care	62,304* \$1 = \$62,304
MOPHS Fund	62,304* \$5 = \$311,520
Total	\$934,560

Oversight notes this legislation does provide that a victim is only eligible one time for a waiver of the fee (§193.265.6(2)).

Oversight also notes HB 1300 (2020 legislative session) contained similar language regarding the provision of a free birth certificate to victims of domestic violence. In that fiscal note response, DHSS stated that while they did not know the number of birth certificates that would be issued and the actual potential fiscal impact was unknown, they believed the number of qualifying individuals who would apply for a free birth certificate would be minimal due to the target population most likely being unaware of the legislation.

Since the number of individuals actually applying for a free birth certificate was assumed to be minimal, Oversight assumed, for fiscal note purposes, that it was possible for up to 10% of victims to request a free birth certificate annually. The annual estimated loss of funds to GR in the fiscal note for HB 1300 was \$0 to \$26,724; the loss to the Children’s Trust Fund was \$0 to \$33,405; the loss to the MOPHS Fund was \$0 to \$33,405; and the loss to the Endowed Care Cemetery Audit Fund was \$0 to \$6,681.

For the current proposal, **Oversight** assumes the potential losses to be minimal and will not present for fiscal note purposes.

Oversight also notes DHSS assumes it will need between one (1) and seven (7) new FTE as a result of this proposal. Because Oversight assumes a minimal number of individuals will actually request a free birth certificate, Oversight further assumes the DHSS will likely not need additional FTE. However, if the DHSS needs additional funding as a result of the provisions of this proposal, they may request additional funding through the budget process.

Officials from the **Office of Administration - Budget and Planning** defer to the **Department of Health and Senior Services** for the potential fiscal impact of this proposal.

§195.817 – Background checks related to marijuana facilities

MHP states the estimated number of individuals required to have a criminal record check is not known to the Patrol. This would be dependent on the increase in number of criminal records checks based on the requirements in §195.817. For reference, fingerprint based criminal record checks are \$20. Deposits from these records checks are placed in the Criminal Records System Fund (0671).

Oversight obtained additional information from the MHP regarding background check fees. Current background check fees cost \$41.75 each, broken out as follows:

\$20.00	State fee
\$13.25	Federal Fee
<u>\$ 8.50</u>	Vendor fee
\$41.75	Total

In addition to the state fee of \$20, the state receives \$2 as a pass-through fee from the federal portion. Therefore, for each background check conducted, \$22 will be deposited into the Criminal Record System Fund (0671).

Oversight obtained additional information from the DHSS projecting the number of ID applications they anticipate receiving as a result of the passage of Constitutional Amendment 3. DHSS said they anticipate receiving 9,000 agent ID applications for each FY2024 and FY2025 and don't expect agent applications to increase significantly past the numbers projected for FY2025. Currently, DHSS started issuing agent licenses in April 2020 and the licenses are valid for three years; therefore, DHSS estimates renewals occurring starting in 2023. DHSS projects the same average beyond the period of the fiscal note and doesn't anticipate tapering off of applications.

Since the actual number of applications is unknown, Oversight assumes the impact to the Criminal Records System Fund could be up to \$198,000 annually (\$22 * 9,000 applications).

Responses regarding the proposed legislation as a whole

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.

Officials from the **Attorney General's Office**, the **Office of Administration - Administrative Hearing Commission**, the **Department of Commerce and Insurance**, the **Department of Corrections**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Revenue**, the **Department of Public Safety – (Division of Alcohol and Tobacco Control, Capitol Police, Fire Safety, Missouri Gaming Commission, Missouri Veterans Commission, Office of the Director, and State Emergency Management Agency)**, the **Department of Social Services**, the **Office of the Governor**, the **Missouri Department of Agriculture**, the **Missouri Department of Conservation**, the **Missouri Ethics Commission**, the **Missouri Department of Transportation**, the **Missouri House of Representatives**, the **Missouri National Guard**, the **MoDOT & Patrol Employees' Retirement System**, the **Office of the State Auditor**, the **Office of the State Courts Administrator**, the **Joint Committee on Education**, the **Joint Committee on Public Employee Retirement**, **Legislative Research**, the **Oversight Division**, the **Missouri Senate**, the **Missouri Lottery Commission**, the **Missouri Consolidated Health Care Plan**, the **Missouri Office of Prosecution Services**, the **Missouri State Employee's Retirement System**, the **Office of the State Public Defender**, the **State Tax Commission**, the **City of Kansas City**, the **City of Springfield**, the **Jackson County Board of Elections**, the **Platte County Board of Elections**, the **St. Louis County Board of Elections**, the **Phelps County Sheriff's Department**, the **St. Louis County Police Department**, and **Missouri State University** 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, local election authorities, local law enforcement, schools, and colleges were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT</u> – State Government	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
HIGHWAY PATROL TRAFFIC RECORDS FUND (0758)				
<u>Revenue</u> – MHP (\$43.253) Fees from records request p. 3-4	<u>\$0 to \$250</u>	<u>\$0 to \$25,250</u>	<u>\$0 to \$30,250</u>	<u>\$0 to \$120,250</u>
ESTIMATED NET EFFECT ON THE HIGHWAY PATROL TRAFFIC RECORDS FUND	<u>\$0 to \$250</u>	<u>\$0 to \$25,250</u>	<u>\$0 to \$30,250</u>	<u>\$0 to \$120,250</u>
CRIMINAL RECORD SYSTEM FUND (0671)				
<u>Income</u> – MHP (\$195.817) Increase in background checks p. 7	Up to \$165,000	Up to \$198,000	Up to \$198,000	Up to \$198,000
<u>Loss</u> – (§§43.539 and 43.540) From foregone fees for criminal reviews p. 4	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON THE CRIMINAL RECORD SYSTEM FUND	<u>Less than \$165,000</u>	<u>Less than \$198,000</u>	<u>Less than \$198,000</u>	<u>Less than \$198,000</u>

<u>FISCAL IMPACT</u> <u>– Local</u> <u>Government</u>	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses may be impacted by this proposal if they pay the background check fees of employees. (§195.817)

FISCAL DESCRIPTION

FEES TO HIGHWAY PATROL (Section 43.253)

This act provides that a minimum fee of \$6 may be charged by the Missouri State Highway Patrol for any request where there are allowable fees of less than \$6. Such \$6 fee shall be in place of any allowable fee of less than \$6.

The Superintendent of the Missouri State Highway Patrol may increase the minimum fee by not more than \$1 every other year following August 28, 2024. The minimum fee shall not exceed \$10.

MISSOURI RAP BACK PROGRAM (Sections 43.539 & 43.540)

Under current law, an entity participating in the Missouri Rap Back Program may request a person's updated criminal history record if the person has previously had a Missouri and national criminal record review within the previous six years. This act repeals the six-year requirement.

BACKGROUND CHECKS FOR MARIJUANA FACILITIES (Section 195.817)

Under this act, the Department of Health and Senior Services shall require all employees, contractors, owners, and volunteers of marijuana facilities to submit fingerprints to the Highway Patrol for a state and federal criminal background check. The Highway Patrol shall notify the Department of any criminal history record information or lack thereof discovered on the individual. All such records shall be accessible and available to the Department.

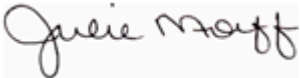
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

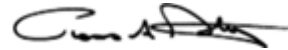
Attorney General's Office
Department of Commerce and Insurance
Department of Corrections
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Higher Education and Workforce Development
Department of Mental Health
Department of Natural Resources
Department of Public Safety
Department of Revenue
Department of Social Services
Joint Committee on Administrative Rules
Joint Committee on Education
Joint Committee on Public Employee Retirement
Legislative Research
Missouri Consolidated Health Care Plan
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Department of Transportation
Missouri Ethics Commission
Missouri House of Representatives
Missouri Lottery Commission
Missouri National Guard
Missouri Office of Prosecution Services
Missouri Senate
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Office of Administration –
 Administrative Hearing Commission
 Budget and Planning
 Division of Purchasing
Office of the Governor
Office of the Secretary of State
Office of the State Auditor
Office of the State Courts Administrator
Oversight Division
Office of the State Public Defender
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City of Kansas City

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Page **12** of **12**
June 7, 2023

City of Springfield
Jackson County Board of Elections
Platte County Board of Elections
St. Louis County Board of Elections
Phelps County Sheriff's Department
St. Louis County Police Department
Missouri State University



Julie Morff
Director
June 7, 2023



Ross Strobe
Assistant Director
June 7, 2023