

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0624H.06T
 Bill No.: Truly Agreed To and Finally Passed HCS for SS for SCS for SB 40
 Subject: Highway Patrol; Department of Health and Senior Services; Health Care; Drugs and Controlled Substances; Children and Minors; Department of Social Services; Children's Division
 Type: Original
 Date: June 1, 2023

Bill Summary: This proposal modifies provisions relating to background checks.

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Criminal Record System	Less than \$165,000	Less than \$198,000	Less than \$198,000
Total Estimated Net Effect on <u>Other</u> State Funds	Less than \$165,000	Less than \$198,000	Less than \$198,000

Numbers within parentheses: () indicate costs or losses.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	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
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 43.539 and 43.540 Missouri RAP Back Program

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** assume the provision will have no fiscal impact on their organization.

In response to a similar proposal in another bill, Perfected HB 70 from the 2023 session, officials from the **Missouri Highway Patrol (MHP)** stated the impact to the Criminal Record System fund is unknown but MHP has looked at projections and does not see a fiscal impact.

Based on information provided by the MHP, **Oversight** notes there were 103,325 non-criminal justice individuals enrolled in the RAP Back Program.

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 if certain persons no longer need to get a background check done every six years. Oversight is uncertain how many criminal record reviews are completed due to the six year requirement; however, Oversight does not anticipate the impact to the Criminal Records System Fund to exceed the \$250,000 threshold.

Section 171.097 - Background check for Any Person 18 Years of Age or Older

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the proposal will not fiscally impact their agency.

In response to SB 40 (2023), officials from the **Missouri Highway Patrol** stated the estimated number of individuals seeking enrollment that would require an open records criminal records check is not known to the Patrol. The Patrol will rely on DESE to provide the projected number of individuals seeking enrollment that would require an open records criminal records check and what type of records check. Depending on what the individual school districts decide, the fiscal impact may be incurred by the district or the cost may be incurred by the individual, at the request of the district.

In response to a similar proposal from 2020 (HB 1483), officials from the **MHP** stated:

The Department of Elementary and Secondary Education anticipates that this legislation would impact a relatively low number of individuals totaling approximately 100 applicants per year equaling \$2,200 deposited in the Criminal Record System Fund annually.

100 applicants x \$22.00 = \$2,200 deposited in the Criminal Record System Fund annually.

The cost for a state and federal fingerprint based criminal record check is **\$33.25**, per request. The state portion of the record check fee is \$20.00 and the federal portion is \$13.25. If the submitting agency chooses to utilize the state fingerprint services vendor, then an additional \$8.50 is charged by the vendor for this service. Thus, the fee breakdown per request is as follows:

State Fee: \$20.00

Federal Fee: \$13.25

Total (state and federal Fee) \$33.25

Total (state, federal and vendor fee): \$41.75

The total amount retained in the Criminal Record System Fund after paying the FBI is \$22.00 per request. This equals \$20.00 for the state fee, pursuant to Section 43.530, and \$2.00 of the federal fee, pursuant to 28 CFR 20.31(e) (2) and the current fee schedule as posted in the Federal Register.

In response to a similar proposal from 2019, HB 836 (2019), **Springfield Public School** officials assumed this proposal would cost \$5,000 for process management.

In response to a similar proposal, HB 836 (2019), **Francis Howell School District** officials assumed their district does not have any program in which an adult student, as defined in the proposed legislation, attends classes with “regular” K-12 students.

Oversight assumes if school districts must perform background checks on adult students not counted for purposes of average daily attendance, income to the Criminal Record System Fund (0671) would increase \$2,200 (using the 2020 estimate given by the MHP) and school districts cost would increase \$4,175 (100 x \$41.75). Oversight does not consider these amounts material; therefore, Oversight will not show a fiscal impact to the MHP or to school districts from this section of the proposal

Section 195.817 – Background checks related to marijuana facilities

Officials from the **Department of Health and Senior Services** and the **Office of Administration** each assume this section of the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal, SB 40 (2023), the **Department of Public Safety – Missouri Highway Patrol** state current background check fees cost \$41.75 each, broken out at 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 federal government. Therefore, for each background check conducted, \$22 will be deposited into the Criminal Record System Fund (#0671).

Oversight also obtained additional information from the DHSS projecting the number of ID applications they anticipate receiving as a result of the passage of Amendment 3. DHSS said they anticipate receiving 9,000 agent ID applications each for FY2024 and FY2025 and don't expect agent applications to increase significantly past the numbers projected for FY 2025. 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).

Section 210.493 - Background checks required of certain individuals

Officials from the **Office of the State Courts Administrator** 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 this agency.

Responses regarding the proposed legislation as a whole

Officials from the **Department of Public Safety - Missouri Highway Patrol** state open records may be obtained by a name based or fingerprint based criminal record check. The fiscal impact is unclear as it cannot be determined how many of each type of criminal record checks would be conducted based on the requirements of Sections 171.097 and 195.817. Name based criminal record checks are \$14.00 and fingerprint based criminal record checks are \$20.00. Deposits from these records checks are placed in the Criminal Records System Fund (0671).

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 the number of criminal records check and what type of records checks performed based on Sections 171.097 and 195.817. Name based criminal record checks are \$14.00 and fingerprint based criminal record checks are \$20.00. Deposits from these records checks are placed in the Criminal Records System Fund (0671).

Officials from the **Attorney General's Office, Office of Administration, Department of Commerce and Insurance, Department of Elementary and Secondary Education, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Mental Health, Department of Revenue, Department of Public Safety (Director's Office, Gaming Commission, Missouri Veterans Commission, and the State Emergency Management Agency), Department of Social Services, Missouri Department of Agriculture, Missouri Department of Transportation, Missouri Lottery, Missouri National Guard, Office of the State Courts Administrator, Office of Administration - Administrative**

Hearing Commission, St. Louis County Police Department and the **Phelps County Sheriff** assumed the proposal would 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 for this proposal.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other sheriffs and police departments 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.

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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
CRIMINAL RECORD SYSTEM FUND (0671)			
<u>Loss</u> - from foregone fees for criminal record reviews - §43.539 & 43.540	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Income</u> - DPS-MHP - increase in background checks - §195.817	<u>Up to \$165,000</u>	<u>Up to \$198,000</u>	<u>Up to \$198,000</u>
ESTIMATED NET EFFECT ON THE CRIMINAL RECORD SYSTEM FUND	Less than <u>\$165,000</u>	Less than <u>\$198,000</u>	Less than <u>\$198,000</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
Local Government	<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. (\$195.780)

FISCAL DESCRIPTION

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. This provision is identical to SB 264 (2023).

Under this act, school districts shall ensure that a state criminal history background check consisting of open records is conducted on any person who is 18 years old or older who is not counted in the school district's average daily attendance when such person requests enrollment in a course that will take place on school property at a time when K-12 students are present. Such background check shall be processed through the Missouri State Highway Patrol, and the person seeking admission shall pay the fees for such background checks as provided in current law. A person found to have been convicted of a crime or offense for which a certificate of license to teach would be revoked or not issued shall be prohibited from enrolling in the course.

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.

Finally, this act modifies provisions of current law relating to background checks of individuals in connection with licensed residential care facilities and licensed child placing agencies. Current law requires officers, managers, and support staff to undergo background checks and this act repeals that provision. This act requires the background check to include a state background check.

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 Health and Senior Services

Department of Public Safety

Missouri Highway Patrol

Director's Office

Missouri Gaming Commission

Missouri Veterans Commission

State Emergency Management Agency

Attorney General's Office,

Office of Administration

Joint Committee on Administrative Rules

Office of the Secretary of State

Office of the State Courts Administrator

Department of Mental Health

Department of Commerce and Insurance

Department of Labor and Industrial Relations

Department of Revenue

Department of Social Services

Missouri Department of Agriculture

Missouri Department of Transportation

Missouri Lottery Commission

Kansas City Police Department

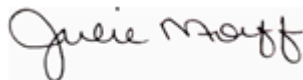
Phelps County Sheriff's Department

Branson Police Department

St. Louis County Police Department

Phelps County Sheriff

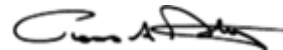
Springfield Public School



Julie Morff

Director

June 1, 2023



Ross Strope

Assistant Director

June 1, 2023