

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0624S.05P  
Bill No.: Perfected SS for SCS for SB 40  
Subject: Education, Elementary and Secondary; Department of Elementary and Secondary Education; 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: March 23, 2023

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
General Revenue	(\$80,322)	(\$8,266)	(\$8,473)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$80,322)</b>	<b>(\$8,266)</b>	<b>(\$8,473)</b>

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

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</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 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

**Oversight** was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

#### **Section 43.539 and 43.540 Missouri RAP Back Program**

In response to a similar proposal, SB 264 (2023), officials from the **Department of Public Safety (Missouri Highway Patrol, Office of the Director, Missouri Gaming Commission, Missouri National Guard, Missouri Veterans Commission, and State Emergency Management Agency)**, the **Department of Commerce and Insurance**, the **Department of Elementary and Secondary Education**, the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Social Services**, the **Missouri Department of Agriculture**, the **Missouri Department of Transportation**, the **Office of Administration**, the **Attorney General's Office**, the **Office of the State Auditor**, the **Office of the State Courts Administrator**, the **Missouri Lottery Commission**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, and the **Phelps County Sheriff's Department** 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 these sections.

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

In response to the previous version, officials from the **Department of Elementary and Secondary Education (DESE)** assumed the proposal would not fiscally impact their agency.

In response to SB 40 (2023), officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** stated 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 which type of criminal record check would be conducted. Name-based criminal record checks are \$14.00 and fingerprint-based criminal record checks are \$20.00.

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

In response to the previous version, officials from the **Department of Health and Senior Services**, the **Department of Public Safety (DPS) - Missouri Highway Patrol (MHP)** and the **Office of Administration** each assumed this section of the proposal would have no fiscal impact on their respective organizations.

As noted earlier, the DPS-MHP 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 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

In response to the previous version, officials from the **Attorney General's Office**, the **Department of Health and Senior Services**, the **Department of Public Safety - Missouri Highway Patrol**, the **Department of Social Services**, the **Office of Administration (OA)** and **OA - Administrative Hearing Commission**, the **Kansas City Police Department**, the **Phelps County Sheriff's Department**, the **Branson Police Department**, the **St. Joseph Police Department** and the **St. Louis County Police Department**, each assumed this section of 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 for this section.

In response to a similar proposal, HB 81 (2023), officials from the **Office of the State Courts Administrator** assumed the proposal would 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.

**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.

Senate Amendment 1 – Section 162.068 Screened Volunteers

In response to a similar proposal, HB 139 (2023), officials from **Department of Elementary and Secondary Education** stated Section 162.068 creates the definition for what a “screened volunteer” is. Sub-Section 8 requires that school districts and charter schools report “screened volunteer” information to the department. A new data collection will be required. DESE estimates the cost for this data collection to be **\$40,000**.

Section 168.631 requires that the department create a new database to house the “screened volunteer” data that is reported by the school districts and charter schools. In addition, the data/database is to be accessible/searchable to school districts and charter schools. There will be a cost for the new database and a new interactive interface (Web Application) will be required. ITSD estimates \$40,322 in year one to build the new data collection tool with ongoing costs of \$8,266 in FY 2025 and \$8,472 in FY 2026.

In response to a similar proposal, HB 139 (2023), officials from the **Office of Administration – Information Technology** stated it is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity. This project would have to be prioritized by DESE to be worked among DESE's other projects. DESE ODSM and DESE Data Governance will define all data elements needed to be captured, provide those to ITSD, which will be used to

establish the database table(s) and fields. DESE ODSM will also collect any historical information in a standard data layout that aligns with the database/fields they define, compile all data from all districts and charters, and provide ITSD with a one-time import of historical data. The Web application functionality was assumed by ITSD. No additional functionality or reporting is assumed in this estimate. Should additions/enhancements to functionality be made by DESE, those efforts will require new estimates. ITSD estimates the project would take 424.44 hours at a contract rate of \$95 for a total cost of **\$40,322** with on-going support costs.

In response to a similar proposal, HB 139 (2023), officials from the **Department of Public Safety - Missouri Highway Patrol, Attorney General's Office** and the **Department of Social Services** each 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 section of the proposal.

**Oversight** does not anticipate a fiscal impact to school districts; however, Oversight did not receive any responses related to the fiscal impact of this provision from school districts. Oversight has presented this fiscal note on the best current information available. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, school districts 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.

#### 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.

In response to a similar proposal, officials from the **Office of the Secretary of State (SOS)** noted 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.

Responses regarding the proposed legislation as a whole

Officials from the **Office of Administration - Administrative Hearing Commission, Department of Public Safety – Director’s Office, Missouri Lottery** and the **Missouri Department of Agriculture** 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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>GENERAL REVENUE</b>			
Costs - DESE - data collection §162.068	(\$40,000)	\$0	\$0
Costs - DESE/ITSD - to develop a new database and web application	(\$40,322)	(\$8,266)	(\$8,473)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$80,322)</u></b>	<b><u>(\$8,266)</u></b>	<b><u>(\$8,473)</u></b>
<b>CRIMINAL RECORD SYSTEM FUND (0671)</b>			
Loss - from foregone fees for criminal record reviews - §43.539 & 43.540	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Income - DPS-MHP - increase in background check fees for association employees and screened volunteers - §162.068 & 168.631	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
Income - DPS-MHP - increase in background checks - §195.780	<u>Up to \$165,000</u>	<u>Up to \$198,000</u>	<u>Up to \$198,000</u>
<b>ESTIMATED NET EFFECT ON THE CRIMINAL RECORD SYSTEM FUND</b>	<b><u>More or less than \$165,000</u></b>	<b><u>More or less than \$198,000</u></b>	<b><u>More or less than \$198,000</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></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

This proposal modifies provisions related to background checks.

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

Administrative Hearing Commission

Joint Committee on Administrative Rules

Office of the Secretary of State

Office of the State Courts Administrator

Department of Commerce and Insurance

Department of Mental Health

Department of Labor and Industrial Relations

Department of Revenue

Department of Social Services

Missouri Department of Agriculture

Missouri Department of Transportation

Office of the State Auditor

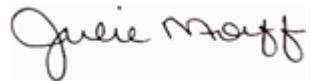
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Missouri Lottery Commission  
Kansas City Police Department  
Phelps County Sheriff's Department  
Branson Police Department  
St. Joseph Police Department  
St. Louis County Police Department  
Phelps County Sheriff  
Springfield Public School



Julie Morff  
Director  
March 23, 2023



Ross Strope  
Assistant Director  
March 23, 2023