

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1205S.01I  
 Bill No.: SB 43  
 Subject: Attorneys; Children and Minors; Courts; Courts, Juvenile; Domestic Relations;  
 Family Law; Mental Health, Department Of; Social Services, Department Of;  
 Youth Services, Division Of  
 Type: Original  
 Date: January 28, 2025

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue	(Unknown, more or less than \$9,458,130)	More or Less than \$13,518,892 to (Unknown)	More or Less than \$13,516,512 to (Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Unknown, more or less than \$9,458,130)</b>	<b>More or Less than \$13,518,892 to (Unknown)</b>	<b>More or Less than \$13,516,512 to (Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Child and Family Legal Representation Fund*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Fund income less disbursements net to zero.

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
Federal Funds*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Fund income less disbursements net to zero.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
General Revenue	1.5 FTE	1.5 FTE	1.5 FTE
Federal Funds	1.5 FTE	1.5 FTE	1.5 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>3 FTE</b>	<b>3 FTE</b>	<b>3 FTE</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 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
<b>Local Government*</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

\*Potential child attorney or GAL costs

## FISCAL ANALYSIS

### ASSUMPTION

§§210.119, 210.145, 210.160, 210.560, 210.565, 210.762, 211.032, 211.211, 211.261, 211.462, 477.700, 477.705 & 477.710 – Child Protection

Officials from the **Office of Administration - Budget and Planning (B&P)** assume §477.710 creates the Child and Family Legal Representation Fund. This fund may hold gifts, contributions, grants, bequests, or other aid received from federal, private, or other sources. To the extent that gifts, contributions, grants, bequests, or other aid received from federal, private, or other sources are deposited into this fund, Total State Revenue may increase by an unknown amount.

Officials from **Office of the State Courts Administrator (OSCA)** state the “Child and Family Legal Representation Coordinating Board” shall be composed of nine members. The members shall serve without compensation but shall be reimbursed out of funds appropriated for this purpose for actual and reasonable expenses incurred in the performance of their duties. It is unclear who will pay the attorney fees associated with representing the children. OSCA presumes that the counties would be responsible for paying the child's attorney fees in the same manner that the counties currently pay for guardians’ ad litem. There may be additional impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

**Oversight** notes §477.700 creates the “Child and Family Legal Representation Coordinating Board” within the Missouri Supreme Court. The Board, consisting of nine members appointed by the Supreme Court as specified in the act, shall have the responsibility to collaborate with the various judicial circuits, judges, attorneys and other state departments or agencies to ensure uniform, high-quality legal representation to children. The “Child and Family Legal Representation Fund” is also created in the State Treasury to fund the work of this office.

Officials from **the Department of Social Services (DSS)** state the following:

There is an anticipated fiscal impact to the Children’s Division to execute 210.119.1 RSMo. as drafted.

In Calendar Year 2024 the Division spent \$13,685,535 (\$4,747,512 GR and \$8,938,023) for 70 youth in Out of State Placements for an average of a 60-day placement, due to lack of placement options within the State of Missouri. This is an average of \$3,258.46 daily rate per youth. In CY 2024 the Division spent \$15,066,206 GR for children in hospitals beyond medical necessity. This was for approximately 314 youths for an average of 22 days per youth. The total current cost to house these youth is \$28,751,741. (\$19,813,718 GR and \$8,938,023 FF)

It would take 4 programs to house these youth. A residential program that would follow the DYS model would require an initial start-up cost of \$9,218,844 GR and typically take about six months to get it ready. The Division estimates the on-going cost to operate this program would be \$1,200 per day per youth. Therefore, the on-going cost would be \$17,520,000 (40 beds X \$1,200 X 365 days) (\$6,077,688 GR and \$11,442,312 FF). Below is a chart showing the costs and savings.

		First year		On-going	
		GR	FF	GR	FF
<b>Savings</b>					
Out of state placements	\$13,685,535			\$4,747,512	\$8,938,023
Hospital Stay	\$15,066,206			\$15,066,206	
	<u>\$28,751,741</u>			<u>\$19,813,718</u>	<u>\$8,938,023</u>
<b>Cost</b>					
Start-up	(\$9,218,844)	(\$9,218,844)			
On-going	(\$17,520,000)			(\$6,077,688)	(\$11,442,312)
<b>Net</b>		<b>(\$9,218,844)</b>	<b>\$0</b>	<b>\$13,736,030</b>	<b>(\$2,504,289)</b>

Since the first year would be spent on start-up there would be no savings.

It is difficult to estimate the daily cost of these facilities, so the Department is providing a first-year cost of \$9,218,844 and an on-going net savings to General Revenue up to \$13,736,030 and net federal cost of up to \$2,504,289 for services.

In addition to the services listed above, the Department would need three staff consisting of one legal counsel, one program manager, and one program development specialist. In order to receive federal reimbursement for these services, DSS would need to develop a rate approved by CMS. The staff are needed to coordinate appropriate rate structure research and development and to work with CMS on rate structure approval to maximize federal reimbursement. In addition, staff are needed for developing a structure for on-going service monitoring, oversight of the program, and appropriate licensure for federal reimbursement.

Children’s Division (CD) has reached out to federal partners in the Administration for Children and Families (ACF) and is awaiting a determination as to whether or not this proposed legislation may create a fiscal impact on CD’s entitlement to funding under the federal Child Abuse Prevention and Treatment Act (CAPTA) and Title IV-E. An addendum will be submitted once we receive their response.

There would appear to be no fiscal impact on CD in the underlying CAN cases in juvenile court, as the county/juvenile office usually pays for these contracted attorneys.

However, CD pays for the services of parents' attorneys and the GAL in all TPR cases. Although it is not likely in many courts that an attorney for the child and a GAL would be appointed, there would be a fiscal impact on CD for the cost of paying for both counsel for a child and a GAL for a child, when typically at present only a GAL represents the child.

So essentially in TPR cases, the fiscal impact for CD would be the fees of one additional attorney on the case in those cases where a court appointed both counsel for a child and a GAL. If the judge chooses to appoint a GAL in addition to an attorney for the child in the TPR, the result would be additional attorney fees of approximately \$7000 in each child's case, and this would include DLS and JO filed cases. There were 6,725 children who exited Family Centered Out-of-Home (alternative/foster) Care according to 2023 Children's Division Annual Report. Out of that number, there were **404** terminations of parental rights proceedings. The worst-case scenario would be an anticipated fiscal impact of **\$2,828,000** (404 TPRs X \$7000). However, it is unknown how many judges would appoint both an attorney and a GAL.

It is permissive as to whether the court chooses to appoint a GAL as well as legal counsel. It has also been a longstanding requirement for CAPTA grant funding that state child welfare agencies include in their CAPTA plans "provisions and procedures requiring that in every case involving a victim of child abuse or neglect which results in a judicial proceeding, a guardian ad litem, who has received training appropriate to the role, including training in early childhood, child, and adolescent development, and who may be an attorney or a court appointed special advocate who has received training appropriate to that role (or both), shall be appointed to represent the child in such proceedings (I) to obtain first-hand, a clear understanding of the situation and needs of the child; and (II) to make recommendations to the court concerning the best interests of the child." 42 U.S.C. s 5106a(b)(2)(B)(xiii). See Erin Phillips, When parents Aren't Enough: External Advocacy in Special Education, 117 Yale L.J. 1802, 1839 (2008) ("Since 1974, the Child Abuse Prevention and Treatment Act (CAPTA) has conditioned the disbursement of CAPTA grants on the existence of a state law requiring the appointment of a guardian ad litem "in every case involving an abused or neglected child that results in a judicial proceeding.")

CD receives a total of \$1.7 million annually in CAPTA grant funding. The proposed legislation could impact an unknown amount of CAPTA grant funding. ACF has previously informed CD that the legislations proposed in this bill would impact CAPTA and CD would have to enter into a Program Improvement Plan (PIP) to come in compliance. The financial penalty would take place if we do not successfully complete the PIP.

Officials from the **Office of Administration (OA), Information Technology Services Division (ITSD)/DSS** state updates to the DYS and FACES applications would be required.

OA, ITSD/DSS assumes every new IT project/system will be bid out because all ITSD resources are at full capacity. IT contract rates for the DYS & FACES applications are estimated at \$105/hour. It is assumed the applications modifications will require 1,135.08 hours for a cost of

\$119,183 (1135.08 \* \$105) for FY26 and on-going costs of \$23,712 for FY27 and \$24,305 for FY28.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by ITSD/DSS for fiscal note purposes.

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

Officials from the **Office of the State Treasurer (STO)** assume 1 FTE (Treasury Coordinator) is needed to handle the potential activity from this proposal.

**Oversight** assumes STO is provided with core funding to handle a certain amount of activity each year. Oversight assumes STO could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, STO could request funding through the appropriation process.

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation costs.

**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**, the **Department of Mental Health**, the **Office of the State Public Defender**, the **Missouri House of Representatives**, the **Missouri Senate**, the **Joint Committee on Administrative Rules** and the **Missouri Office of Prosecution Services** 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 2026 (10 Mo.)	FY 2027	FY 2028
<b>GENERAL REVENUE</b>			
<u>Transfer Out</u> - OSCA - Appropriation to the Child and Family Legal Representation Fund §477.710 p. 3	(Unknown)	(Unknown)	(Unknown)
<u>Savings</u> – DSS – Housing Youth in Out of State Placements and Hospitals (§210.119.1) p. 3	\$0	\$19,813,718	\$19,813,718

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
Cost – DSS – to house youth under 4 programs (§210.119.1) p. 4	(\$9,218,844)	(\$6,077,688)	(\$6,077,688)
<u>Costs – DSS - (§210.119.1) p. 4-6</u>			
Personnel Service	(\$98,503)	(\$119,386)	(\$120,580)
Fringe Benefits	(\$56,953)	(\$68,802)	(\$69,265)
One Time E&E	(\$10,342)	\$0	\$0
On-going Expense & Equipment	(\$13,897)	(\$17,094)	(\$17,521)
ITSD Costs	(\$59,591)	(\$11,856)	(\$12,152)
<u>Total Costs -</u>	(\$239,286)	(\$217,138)	(\$219,518)
FTE Change	1.5 FTE	1.5 FTE	1.5 FTE
Cost – DSS – additional costs if judge appoints both a GAL and attorney p. 5	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Loss – DSS – potential loss of CAPTA funding because of certain requirements that must be met p. 5	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b>(Unknown, more or less than \$9,458,130)</b>	<b>More or Less than \$13,518,892 to (Unknown)</b>	<b>More or Less than \$13,516,512 to (Unknown)</b>
Estimated Net FTE Change on General Revenue	<u>1.5 FTE</u>	<u>1.5 FTE</u>	<u>1.5 FTE</u>
<b>CHILD AND FAMILY LEGAL REPRESENTATION FUND</b>			
<u>Income – Gifts, grants, bequests, or contributions §477.705 p. 3</u>	Unknown	Unknown	Unknown
<u>Transfer In – Appropriation from General Revenue §477.710 p. 3</u>	Unknown	Unknown	Unknown

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
<u>Cost</u> – admin costs and distributions from the Child and Family Legal Representation Coordinating Board to various judicial circuits §477.710 p. 3	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON THE CHILD AND FAMILY REPRESENTATION FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>FEDERAL FUNDS</b>			
Program Reimbursement	Unknown, more or less than \$239,290	Unknown, more or less than \$2,721,429	Unknown, more or less than \$2,723,810
<u>Savings</u> – DSS – Housing Youth in Out of State Placements and Hospitals (§210.119.1) p. 3	\$0	\$8,938,023	\$8,938,023
Cost – DSS – to house youth under 4 programs (§210.119.1) p. 4	\$0	(\$11,442,312)	(\$11,442,312)
<u>Costs</u> – DSS - (§210.119.1) p. 4-6			
Personnel Service	(\$98,504)	(\$119,387)	(\$120,580)
Fringe Benefits	(\$56,954)	(\$68,803)	(\$69,266)
One Time E&E	(\$10,342)	\$0	\$0
On-going Expense & Equipment	(\$13,898)	(\$17,094)	(\$17,522)
ITSD Costs	(\$59,592)	(\$11,856)	(\$12,153)
<u>Total Costs</u> -	(\$239,290)	(\$217,140)	(\$219,521)
FTE Change	1.5 FTE	1.5 FTE	1.5 FTE
<u>Cost</u> – DSS – additional costs if judge appoints both a GAL and attorney p. 5	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)



<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
<u>Loss – DSS – potential loss of CAPTA funding because of certain requirements that must be met p. 5</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
Estimated Net FTE Change on Federal Funds	1.5 FTE	1.5 FTE	1.5 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
<b>COUNTIES</b>			
<u>Costs – potential child attorney or GAL costs p. 3</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
<b>ESTIMATED NET EFFECT ON COUNTIES</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>

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, the Department of Social Services shall establish a program to provide a comprehensive system of service delivery, education, and residential care for youth with severe behavioral challenges or severe developmental disabilities. In order to be eligible for the program, a youth shall be under 21 years of age, in the custody of the Department of Social Services, and a team of professionals in the Department shall have made a determination that the needs of the youth cannot be met with existing programs. A youth under 21 years of age in a voluntary placement agreement may qualify for the program if he or she otherwise meet the requirements of this act, and resources are available.

The Department shall have the authority to contract with qualified services providers to provide services to the youth under this act. Such service providers shall be licensed or accredited in their respective fields of service, based in Missouri, and not-for-profit entities with a record of success in the areas for which they shall provide services and shall have the same qualified immunities from civil liability as other private contractors with the Department.

The Department shall be authorized to enter into memoranda of understanding with any facility or campus under state ownership, including those owned and operated by the Division of Youth Services and the Department of Mental Health, that are appropriate for the youth being served, including facilities that are under-utilized or vacant.

Under this act and beginning no later than August 28, 2027, a judge shall appoint a child's counsel instead of a guardian ad litem (GAL) for children in certain proceedings who are at least 14 years but less than 18 years of age. If the child has a GAL at the time of his or her 14th birthday, that GAL shall automatically become the child's counsel, unless the judge determines that it is necessary to continue the GAL appointment due to the child's diminished capacity. The same attorney may serve as a GAL and child's counsel for a sibling group of varying ages, unless the attorney or judge finds a conflict of interest.

Finally, this act creates the "Child and Family Legal Representation Coordinating Board" within the Missouri Supreme Court, with nine members appointed by the Supreme Court with duties as described in the act, including working cooperatively with the various judicial circuits, judicial personnel, attorneys, and state departments and agencies to ensure uniform, high-quality legal representation for children or families involved in legal proceedings and making recommendations to the Missouri Supreme Court concerning the establishment or modification of minimum training requirements and practice standards for attorneys serving as guardians ad litem, children's counsel, or parent's counsel.

The Coordinating Board may also develop, coordinate, and evaluate pilot projects relating to guardian's ad litem, children's counsel, or parent's counsel and outcomes relating to the various models of representation, as well as implementation of the children's counsel appointment provisions of this act.

This act creates the "Child and Family Legal Representation Fund" in the state treasury, to be distributed by the Coordinating Board to the judicial circuits for the purpose of improving or providing legal representation for children or families, including the appointment of guardians ad litem, children's counsel, or parent's counsel.

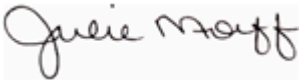
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Office of Administration - Budget and Planning  
Office of the State Courts Administrator  
Department of Social Services  
Office of the State Treasurer  
Attorney General's Office  
Department of Elementary and Secondary Education

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Department of Mental Health  
Office of the State Public Defender  
Missouri House of Representatives  
Missouri Senate  
Joint Committee on Administrative Rules  
Missouri Office of Prosecution Services



Julie Morff  
Director  
January 28, 2025



Jessica Harris  
Assistant Director  
January 28, 2025