

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3145-02
BILL NO.: SB 757
SUBJECT: Revises Various Child Protection Laws
TYPE: Original
DATE: January 25, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	Exceeds (\$147,655)	Exceeds (\$152,283)	Exceeds (\$153,629)
Total Estimated Net Effect on <u>All</u> State Funds	Exceeds (\$147,655)	Exceeds (\$152,283)	Exceeds (\$153,629)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government*	(Unknown)	(Unknown)	(Unknown)

* **Unknown costs not expected to exceed \$100,000 annually.**

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Prosecution Services** and **Department of Public Safety - Missouri Highway Patrol** assume that this proposal will not fiscally affect their agencies.

Officials from the **Office of State Courts Administrator (OSCA)** stated there may be some increase in the number of cases filed, but the OSCA would not anticipate a significant impact on the workload of the judiciary.

Officials from the **Office of State Public Defender (SPD)** stated that in FY 99, the SPD provided representation in 507 cases of endangering the welfare of a child for indigent clients. If just 20 % of these cases could be filed as child assault cases, then approximately 100 cases would move from a D felony to an A or B felony. As the severity of a case escalates, the amount of attorney time required to provide representation also escalates.

The SPD assumes they will need one-half of an FTE for an Assistant Public Defender (\$33,360) and one-quarter of an FTE for a Paralegal (\$23,112). The new FTE would require the necessary expense and equipment items as well.

Oversight assumes that the SPD could hire one additional Assistant Public Defender to handle the increased workload resulting from enactment of this proposal. Oversight has removed the rental costs from the fiscal estimate provided by the Office of State Public Defender.

Officials from the **Department of Social Services - Division of Legal Services (DLS)** stated this proposal requires the local child fatality review panel to review all deaths of children that meet guidelines set by the Department of Social Services. Local child fatality review panels currently have guidelines as to which deaths to review and are trained to use the guidelines. Additionally, the panel has discretion to review any child death reported to it by the medical examiner or coroner. Some local child fatality review panels currently review all deaths in their county.

The DLS stated the proposal differentiates, in child fatality cases, whether a medical examiner/coroner or the child's personal physician shall notify the Division of Family Services within 24 hours. The DFS is currently taking information on child fatalities. The proposal modifies the time frame as to when the Division of Family Services is contacted. The proposal also add reports of child pornography to be investigated, along with other reports alleging criminal violations on a child. The Division of Family Services already investigates reports of

ASSUMPTION (continued)

child pornography.

The proposal modifies expungement criteria and time frame in reports where Division of Family Services finds insufficient evidence. The Division of Family Services is to maintain reports concluded with insufficient evidence for 10 years from the date of the report or date of last report if there were subsequent reports. The electronic storage of data will be addressed by the Department of Social Services - Division of Data Processing.

The proposal includes child physical abuse, neglect, exploitation and fatalities along with child sexual abuse, within the purview of the State Technical Assistance Team (STAT). The proposal requires the STAT investigators to have proper training for peace officers. STAT investigators currently meet this training requirement and receive continuing education.

The DLS stated there is no programmatic or fiscal impact to the DLS contained in the proposal. Current resources will continued to be utilized to meet the statutory requirements.

Officials from the **Department of Social Services - Division of Family Services (DFS)** stated there is no programmatic or fiscal impact to the DFS contained in this proposal. Current resources will continue to be utilized to meet the statutory requirements.

Officials from the **Department of Social Services - Division of Data Processing (DDP)** stated the child abuse system currently uses 2,300 cylinders for record retention. The DDP estimates the provisions of this legislation would require an additional 9,200 cylinders of disk storage (8 gigabytes) for 10 year retention. Costs were estimated at \$3,445, \$4,258, and \$4,386 for FY 01, FY 02, and FY 03, respectively for the additional computer storage space. The costs were charged to the General Revenue Fund.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in this proposal. An increase in commitments would depend on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (at least \$35.00 per inmate, per day) or through supervision provided by the Board of Probation and Parole (at least \$3.00 per offender, per day). Due to the wide variance of newly created crimes and punishments, the fiscal impact as it relates to the DOC is unknown.

ASSUMPTION (continued)

The DOC anticipates that new beds might have to be constructed to accommodate the number of offenders receiving longer sentences due to this proposal. At this time, the DOC is unable to determine the number of people that would be convicted under the provisions of this proposal to estimate the fiscal impact for additional capital improvements.

Estimated construction cost for one new maximum security inmate bed is \$48,800.

Oversight assumes the proposal could result in more offenders being incarcerated or placed on probation. Additional costs for supervision and care by the DOC, although unknown, would likely exceed \$100,000 annually.

Oversight notes the proposal requires the local Child Fatality Review Panels to investigate all deaths, which meet the DOSS guidelines for review, of children under the age of 18. The Department of Health - Bureau of Vital Statistics reports that during 1998, there were 1,035 deaths of persons under the age of 18 in the state. The breakdown of deaths of persons under the age of 18 is as follows:

0 to 1 years old	- 573 deaths
1 to 4 years old	- 112
5 to 9 years old	- 77
10 to 14 years old	- 101
15 to 17 years old	- <u>172</u>
Total deaths	<u>1,035</u>

Oversight cannot predict the number of deaths of persons under the age of 18 the local child fatality review teams will choose to investigate. However, it would be reasonable to assume some deaths of children will now be reviewed that would not have been reviewed prior to enactment of this proposal. The requirements of this proposal should not cause the local officials involved in the child fatality review boards to hire additional personnel, however, miscellaneous costs could increase. These local government costs are unknown, but not expected to exceed \$100,000 annually.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
GENERAL REVENUE FUND			
<u>Costs - Office of State Public Defender</u>			
Personal Service (1 FTE)	(\$27,800)	(\$34,194)	(\$35,049)
Fringe Benefits	(\$8,549)	(\$10,515)	(\$10,778)
Expense and Equipment	(\$7,861)	(\$3,316)	(\$3,416)
Total <u>Costs</u> - State Public Defender	<u>(\$44,210)</u>	<u>(\$48,025)</u>	<u>(\$49,243)</u>
<u>Costs - Department of Social Services - Division of Data Processing</u>			
Disk Storage	(\$3,445)	(\$4,258)	(\$4,386)
<u>Costs - Department of Corrections</u>			
Increased Incarceration or Probation Costs	Exceeds <u>(\$100,000)</u>	Exceeds <u>(\$100,000)</u>	Exceeds <u>(\$100,000)</u>
ESTIMATED EFFECT ON GENERAL REVENUE FUND	Exceeds <u>(\$147,655)</u>	Exceeds <u>(\$152,283)</u>	Exceeds <u>(\$153,629)</u>
<u>FISCAL IMPACT - Local Government</u>			
	FY 2001 (10 Mo.)	FY 2002	FY 2003
LOCAL COUNTY AND CITY GOVERNMENTS			
<u>Costs</u>			
Increased Costs for Child Fatality Review Panels	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED EFFECT ON LOCAL GOVERNMENT FUNDS*	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

* Unknown costs not expected to exceed \$100,000 annually.

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal revises various child protection laws, and various criminal provisions including those targeting children as victims.

Child Abuse and Neglect Reports Section 210.109 - The Division of Family Services shall immediately contact law enforcement upon receipt of a report of a suspected violation of certain criminal provisions targeting children. As used in this section, "report" includes hotline calls.

Section 210.115 - Certain medical, child care and school personnel are currently required to report the death of a child under 18 years of age to the Division. If the medical examiner or coroner determines that the child died from natural causes while under medical care and the child's personal physician shall be signing the death certificate, the child's physician shall notify the Division within 24 hours of the child's death. In all other cases, the medical examiner or coroner shall notify the Division of the child's death within 24 hours.

Section 210.145 - The local office of the Division must currently relay reports of certain crimes involving children to local law enforcement. Adds possession of child pornography and newly created crime of furnishing child pornography to a minor to this list.

Section 210.150 - Currently, a person shall have the records of unsubstantiated reports destroyed after two years. This period is extended to ten years. Release of findings or information about cases resulting in a child fatality or near fatality is at the Director of the Department of Social Services' discretion, based upon potential harm to other children within the immediate family.

Section 210.152 - In cases where the Division finds insufficient evidence, the Division shall retain identifying information for ten years from the date of the report.

Section 210.192 - The local child fatality review panel shall review all deaths of children under the age of 18, that meet the guidelines set by the Department of Social Services. The panel has discretion to review any child death reported to it by the medical examiner or coroner.

Section 210.195 - The state Child Fatality Review Panel shall meet at least biannually. The state technical assistance team shall submit findings and recommendations at least once a year to entities including juvenile officers, the chairmen of the local child fatality review panels.

Evidence Section 491.074 - A prior inconsistent statement of any witness testifying in any criminal trial shall be received as substantive evidence.

DESCRIPTION

Sentencing Section 559.115 - A court may not grant probation to defendants convicted of certain crimes, including abuse of a child pursuant to Section 568.060, when classified as an A felony. (Abuse of a child is a Class A felony when the offense results in the death of the child.)

Criminal Provisions Section 566.067 - A person commits the crime of child molestation in the first degree if he subjects a child less than 14 years of age to sexual contact. The penalty for child molestation in the first degree is increased to a B felony (currently, a C felony).

If the actor is a repeat offender, inflicts serious physical injury, displays a weapon or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, the penalty is increased to an A felony (currently, a B felony).

Section 568.065 - Creates the new Class A felony of assault of a child in the first degree, if a person attempts to kill or knowingly causes or attempts to cause serious physical injury to a person less than 17 years of age. Mistake as to age is not a defense.

Section 568.066 - Creates the new Class B felony of assault of a child in the second degree, for attempting to cause or knowingly causing physical injury to a child by means of a deadly weapon or dangerous instrument; recklessly causing serious physical injury to a child; or operating a motor vehicle with criminal negligence while intoxicated or under the influence of controlled substances or drugs, causing physical injury to a child. A child is defined as a person less than 17. Mistake as to age is not a defense.

Section 568.067 - Creates the new Class A misdemeanor of assault of a child in the third degree, for: attempting to cause or recklessly causing physical injury to a child "and such conduct was not discipline administered in a reasonable manner"; causing physical injury with a deadly weapon as a result of criminal negligence; recklessly engaging in conduct which creates a grave risk of death or serious physical injury. A child is defined as a person less than 17. Mistake as to age is not a defense.

Sections 573.025 and 573.035 - Combines provisions which currently constitute the Class A felony of promoting child promoting in the first degree (B felony) and promoting child pornography in the second degree (a C felony), into one section establishing the crime of promoting child pornography, a Class A felony.

Section 573.037 - Possession of child pornography shall include possession or control of any visual depictions of a minor involved in sexual contact. The crime is enhanced from a Class A

DESCRIPTION

misdemeanor to a Class D felony. Eliminates the requirement of a prior offense before offender is guilty of a felony. Each and every visual depiction of child pornography constitutes a separate offense.

Section 573.045 - Creates new Class A felony of furnishing child pornography to a minor, which includes electronic transfer of child pornography to a minor. Each and every visual depiction of child pornography constitutes a separate offense.

Evidence Section 573.050 - In any prosecution for child pornography in the first or second degree or for furnishing child pornography to minors, the determination of the child's age shall be made as set forth in section 568.100, or the determination that the child involved meets the definition of "identifiable minor", shall constitute sufficient evidence to support a conviction.

Special Team Section 660.520 - A special team, to be called a state technical assistance team, shall act in cases of child abuse, child neglect, child sexual abuse, child exploitation or child fatality. Where assistance is requested, state technical assistance team members shall investigate these claims and shall cooperate with law enforcement. Team members must have training to be peace officers. If authorized by local law enforcement, team members shall have arrest powers. Reports of the team, including arrest records, shall be available in the same manner as set forth in sections 610.010 to 610.200.

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 Prosecution Services
Department of Social Services
Office of State Courts Administrator
Department of Corrections
Office of State Public Defender
Department of Public Safety - Missouri Highway Patrol



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Director
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