

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5975-01
Bill No.: Perfected HB 2194
Subject: Criminal Procedure; Crimes and Punishment; Highway Patrol; Law Enforcement Officers and Agencies
Type: Original
Date: March 13, 2018

Bill Summary: This proposal modifies provisions relating to criminal records.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

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

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume the fiscal impact to their organization is unknown.

Upon implementation of this bill, programming updates to the Division of Professional Registration's system would need to be completed to capture rap back expiration dates and allow new applicant data to be entered for six years.

Additional investigators may be needed to vet criminal history reports and it is expected that additional legal services would also be required. Additional staffing would be requested through the budget process.

After conversation with the MHP, **Oversight** assumes DIFP would not incur material programming expense to participate in the program.

In response to a previous version, officials from the **Department of Social Services (DSS)** stated that currently, DSS works with Missouri State Highway Patrol once a year to upload a file of current employees and determine if they have additional open criminal record results acquired since the prior annual review of the information. Rap Back programs would allow DSS to receive this information at the time it is uploaded to the central repository as opposed to one time a year, allowing DSS to address criminal record issues more proactively.

Currently, MHP provides updated open criminal history information regarding current DSS employees once a year at no charge. Section 43.540.2(6) states each request submitted to the Rap Back programs may charge "plus the amount required, if any, by the FBI for the national criminal record review and enrollment in the National Rap Back program." In 2017, DSS submitted 7,174 requests to determine if new open criminal history information had been acquired on current employees. DSS received new results on 24 employees. MHP stated the FBI charged \$12.00 in 2017 for a national criminal record review. This would have incurred either \$86,088, if "each request" meant each current employee in 2017, or \$288, if only requests that returned new information in 2017 were considered. MSHP stated it is unknown at this time if there will be a fee for enrollment in the National Rap Back program and if that fee will be paid by MHP or the individual agencies. Because the answer is not known regarding potential cost, a negative impact is noted.

ASSUMPTION (continued)

The DSS application for employment and the Fingerprint Referral Form for Contractors would need to be updated to include the language that not only will applicants be fingerprinted prior to beginning employment, but their fingerprints will continue to be compared to the central repository and any new criminal history information will be shared with DSS.

Section 43.540.6(2) states upon receiving the Rap Back notification, if DSS deems that the applicant is still serving in an active capacity, DSS may request and receive the individual's updated criminal history record. This process shall only occur if the individual upon which the Rap Back notification is being made has previously had a Missouri and national criminal record review completed for DSS within the previous six years. Currently DSS checks all employees and receives information regarding all open criminal records from the MHP annually. However, this does not include closed records obtained through a national criminal record review. DSS would only receive Rap Back notifications for employees who had been fingerprinted in the previous six years. However, DSS would also receive closed criminal records on these employees which DSS does not currently receive on the annual check.

Oversight notes that the program is voluntary. Also, after conversation with the MHP, Oversight assumes DSS would not incur additional expense from this proposal. MHP notes that currently, agencies such as DSS can request background check on various people (such as foster parents), and this is done either every year or every other year, and a fee is paid to the MHP. With this program, the fee for the background check is paid every six years, so actually, this would save state agencies money, with an offsetting loss to the MHP's Criminal Background Fund. For fiscal note purposes, Oversight will assume no impact from this voluntary program.

In response to a previous version, officials from the **Attorney General's Office (AGO)** assumed any potential cost arising from this proposal can be absorbed with existing resources. AGO may seek additional appropriations if the proposal results in a significant increase in cases.

Officials from the **Department of Revenue, the Office of Administration - Division of Personnel and Facilities Management Design and Construction, the Office of the State Courts Administrator, the Department of Corrections, the Department of Mental Health** and the each assume the proposal will have no fiscal impact on their respective organizations.

ASSUMPTION (continued)

House Amendment 1

Oversight assumes House Amendment 1 will have no fiscal impact on state or local government.

House Amendment 2

Officials from the **Department of Revenue** and the **Department of Public Safety - Missouri Highway Patrol** each assume this amendment will not fiscally impact their respective agencies.

Oversight assumes House Amendment 2 will have no fiscal impact on state or local government.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

The proposed legislation appears to have no direct fiscal impact.

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 Insurance, Financial Institutions and Professional Registration
Department of Social Services
Office of Administration
Attorney General's Office
Office of the State Courts Administrator
Department of Corrections
Department of Mental Health
Department of Revenue
Department of Public Safety
Missouri Highway Patrol

Ross Strope



Acting Director
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