

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3366-04  
Bill No.: HCS for HB 2141  
Subject: Professional Registration and Licensing  
Type: Original  
Date: March 3, 2020

Bill Summary: This proposal establishes the Fresh Start Act of 2020.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Various DCI Funds	(Could be greater than \$396,699)	(Could be greater than \$427,962)	(Could be greater than \$432,253)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>(Could be greater than \$396,699)</b>	<b>(Could be greater than \$427,962)</b>	<b>(Could be greater than \$432,253)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 11 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</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 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Various DCI Funds	4 FTE	4 FTE	4 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>4 FTE</b>	<b>4 FTE</b>	<b>4 FTE</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Section 324.009 - Professional License Reciprocity

Officials from the **Department of Health and Senior Services (DHSS)** assume the proposed legislation revises the professional licensing reciprocity criteria necessary to qualify for a license in the state of Missouri. Applicants applying for licensure under the proposed legislation would fall under the same reciprocity process, fee, and review as current applicants. Changing regulations and applicant licensure reviews are within the normal ebb and flow for the Division of Regulation and Licensure so minimal time and expense will be required to conduct the requirements of the proposed legislation.

The department anticipates being able to absorb these costs. However, until the FY21 budget is final, the department cannot identify specific funding sources.

**Oversight** notes that the DHSS has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

#### Section 324.012 - Fresh Start Act of 2020

Officials from the **Department of Commerce and Insurance (DCI)** state this proposal requires that each state licensing authority list the categories or specific criminal convictions that could disqualify an applicant from receiving a license. Further, licensing authorities shall only list criminal convictions that are specific and directly related to the duties and responsibilities for the licensed occupation. Currently no such list exists. As a result, the department would need ongoing attorney services to develop the list and determine which convictions are "specific and directly related" to the type of license being applied for. The department estimates at least \$285,437 in additional FTE and/or legal contract costs (estimating three (3) FTE attorneys at \$70,359 annually or work in various division / boards in the department) to various department funds annually for this work. The exact costs could be greater. The department would need to request additional FTE and/or expense appropriation through the budget process to handle this additional workload.

This bill also authorizes that an individual with a criminal record may petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license.

ASSUMPTION (continued)

The licensing authority shall inform the individual of their standing within 30 days after the licensing authority has met, but in no event more than four months after receiving the petition from the applicant. Each written determination that an applicant's criminal conviction is a specifically listed disqualifying conviction "shall be documented with written findings for each of the grounds or reasons...by clear and convincing evidence sufficient for a reviewing court".

The licensing authority may charge a fee not to exceed \$25.00 for each petition. The fiscal impact the department for petition process is unknown depending up on the number of petitions received and the extent of the work required. The department would request additional FTE and appropriation, as necessary, through the budget process.

DCI also state that it will take additional review and time to determine if something is "directly related" to the occupation compared to "reasonably related." The person determining that will have to know the essence of a profession and what it requires to be able to determine if the criminal conviction is directly related and whether that crime needs to go on the specific list of crimes as the statute requires. The department is estimating needing one (1) FTE attorney for this work.

In summary, DCI assumes a cost of (4 FTE at \$70,359 annually and an additional unknown cost of \$100,000 for either or both contracting and additional legal staff ) of Unknown but greater than \$396,699 in FY 2021, \$427,962 in FY 2022 and \$432,253 in FY 2023 to Various Department Funds to provide for the implementation of all of the changes in this proposal.

**Oversight** will reflect DCI's estimated need of at least 4 attorneys for this section and that DCI may or may not incur additional unknown cost of \$100,000 for either or both contracting and additional legal staff as a result of this proposal. Oversight will reflect the estimated DCI cost as (Could be greater than \$396,699) in FY 2021, (Could be greater than \$427,962) in FY 2022 and (Could be greater than \$432,253) in FY 2023.

**Oversight** will also reflect a revenue of \$117,000 per year to Various DCI Funds as a result of the \$25 petition fee.

Officials from the **Department of Health and Senior Services (DHSS) - Division of Regulation and Licensure's (DRL)** state this proposed legislation requires the DRL, Bureau of Narcotics and Dangerous Drugs (BNDD), Bureau of Emergency Medical Services (EMS), and Board of Nursing Home Administrators to revise its existing licensing requirements to list the categories or specific criminal convictions that could disqualify an applicant from receiving a license and to remove any vague or generic terms from rules and regulations.

ASSUMPTION (continued)

It is assumed it will take BNDD's Health and Senior Services Manager (salary \$68,802) approximately 40 hours make the required changes. Based on 2,080 working hours per year, this would require 0.02 FTE to assume these duties (40 hours ÷ 2,080 hours per year = 0.02) for a total personal service cost of \$1,376 (\$68,802 X 0.02).

It is assumed it will take EMS's Health and Senior Services Manager (salary \$68,802) approximately 40 hours make the required changes. Based on 2,080 working hours per year, this would require 0.02 FTE to assume these duties (40 hours ÷ 2,080 hours per year = 0.02) for a total personal service cost of \$1,376 (\$68,802 X 0.02).

It is assumed it will take a Principal Assistant Board/Commission (salary \$53,208) approximately 16 hours to make the required changes to state rules and regulations. Based on 2,080 working hours per year, this would require 0.01 FTE to assume these duties (16 hours ÷ 2,080 hours per year = 0.01) for a total personal service cost of \$532 (\$53,208 X 0.01). The department anticipates being able to absorb these costs. However, until the FY21 budget is final, the department cannot identify specific funding sources.

DHSS also assumes the proposed legislation allows a licensing authority to charge a fee to recoup costs when an individual with a criminal record petitions the licensing authority for a determination of whether their criminal record will disqualify them from obtaining a license. DRL assumes fees will not be charged for this service. The department anticipates being able to absorb these costs. However, until the FY21 budget is final, the department cannot identify specific funding sources.

DHSS also assumes the proposed legislation removes the Board of Nursing Home Administrators' (BNHA) ability to deny licenses based on moral turpitude. This will require BNHA to promulgate new rules for the program. It is assumed it will take the BNHA's Principal Assistant Board/Commission (salary \$53,208) approximately 16 hours to make the required changes to state rules. Based on 2,080 working hours per year, this would require 0.01 FTE to assume these duties (16 hours ÷ 2,080 hours per year = 0.01) for a total personal service cost of \$532 (\$53,208 X 0.01). The department anticipates being able to absorb these costs. However, until the FY21 budget is final, the department cannot identify specific funding sources.

**Oversight** notes that the above mentioned agency has stated the DHSS anticipates being able to absorb these costs related to the proposal. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for DHSS.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** assume 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 the 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.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could require additional resources.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state this legislation is not anticipated to cause a fiscal impact beyond its current appropriation.

**Oversight** assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

Bill as a whole:

Officials from the **Department of Natural Resources, the Office of Administration - Administrative Hearing Commission, the Department of Revenue, the Department of Agriculture, the Department of Transportation, the Department of Public Safety - Missouri Highway Patrol and the Department of Higher Education & Workforce Development, the Department of Corrections, the Office of the State Public Defender, the Office of Prosecution Services, the Office of the State Treasurer, the Department of Public Safety - Missouri Gaming Commission and the Department of Elementary and Secondary Education** each assume the proposal will have no fiscal impact on their respective organizations. In response to a previous version, officials from the **Office of the State Courts Administrator** assumed the proposal would have no fiscal impact on their organization.

ASSUMPTION (continued)

**Oversight** notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>VARIOUS DCI FUNDS</b>			
<u>Revenue - DCI</u> p. 4 \$25 petition fee (§ 324.012)	\$117,000	\$117,000	\$117,000
<u>Cost - DCI</u> (§§ 214.276 -346.105 & § 324.012 ) p. 4			
Salaries	(\$234,531)	(\$284,252)	(\$287,094)
Fringe Benefits	(\$116,288)	(\$140,480)	(\$141,424)
Equipment and Expense	(\$62,880)	(\$20,230)	(\$20,735)
Other Fund Cost (Additional FTE or Legal Contract Cost for listing criminal convictions	\$0 or (Unknown greater than \$100,000)	\$0 or (Unknown greater than \$100,000)	\$0 or (Unknown greater than \$100,000)
<u>Total Cost - DCI</u> (§§ 214.276 -346.105 & § 324.012 ) p. 4	(Could be greater than \$513,699)	(Could be greater than \$544,962)	(Could be greater than \$549,253)
FTE Change - DCI (§§ 214.276 - 346.105 & § 324.012 )	4 FTE	4 FTE	4 FTE
<b>ESTIMATED NET EFFECT TO VARIOUS DCI FUNDS</b>	<b>(Could be greater than <u>\$396,699</u>)</b>	<b>(Could be greater than <u>\$427,962</u>)</b>	<b>(Could be greater than <u>\$432,253</u>)</b>
Estimated Net FTE Change to the General Revenue Fund	4 FTE	4 FTE	4 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

## FISCAL IMPACT - Small Business

Small businesses that require professional licenses could be impacted by this proposal.

## FISCAL DESCRIPTION

This bill establishes the "Fresh Start Act of 2020". Beginning January 1, 2021, a person cannot be disqualified from licensure for any occupation solely or in part because of a prior conviction of a crime, unless the criminal conviction directly relates to the duties and responsibilities for the licensed occupation.

Each state licensing authority must revise its existing licensing requirements to explicitly list which categories or specific criminal convictions could disqualify an applicant. The licensing authority cannot consider an arrest without a conviction. A disqualifying conviction must be specific and directly related to the duties and responsibilities of the occupation.

In determining whether an applicant with a conviction will be denied a license, the licensing authority must use a clear and convincing standard of proof and determine the nature and seriousness of the crime, the passage of time since the commission of the crime, the relationship of the crime to the fitness required to perform the duties of the occupation, and any evidence of rehabilitation.

An individual with a conviction cannot be disqualified from an occupation for more than five years, unless the crime is violent or sexual in nature or if the individual was convicted of another crime during that five-year period.

An individual with a conviction can petition the licensing authority for a determination of whether or not the individual's criminal record will disqualify him or her from licensure. The licensing authority must respond within 30 days after the licensing authority has met, but in no event more than four months after receiving the petition from the applicant.

If an individual is denied a license based on a previous criminal conviction, the licensing authority must notify the individual of the grounds for denial. Evidence for the grounds for denial must have clear and convincing evidence sufficient for a reviewing court. The applicant has the right to a hearing to challenge the licensing authority's decision. The licensing authority has the burden of proof on whether the conviction directly relates to the occupation.

The provisions of the act also apply to any occupational license created after the effective date of the bill. Political subdivisions are prohibited from creating any new occupational licenses after the effective date of the bill.



### FISCAL DESCRIPTION (continued)

These provisions do not apply to peace officers, law enforcement personnel, accountants, podiatrists, dentists, physicians and surgeons, pharmacists, nurses, or any persons under the supervision or jurisdiction of the Director of Finance.

### PROFESSIONAL LICENSE RECIPROCITY

This bill makes changes to the existing professional licensure reciprocity statute, through which a person can become licensed in Missouri if they are licensed in another state.

The following individuals are currently excluded in statute from the provisions of this section: those with a certificate of license to teach in public schools; and those licensed by the Board of Registration for the Healing Arts, the Board of Nursing, the Board of Pharmacy, the State Committee of Psychologists, the Dental Board, the Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Architects, the Board of Optometry, and the Veterinary Medical Board.

This bill removes these exclusions and requires that licensure by reciprocity for these professions be the same as any other licensed profession in this state.

Currently, only a resident of Missouri is eligible to apply for a license by reciprocity, the bill allows any person to apply if the; applicant for licensure by reciprocity has had a license for at least one year in another state, territory, or the District of Columbia. The applicant must be licensed at the same practice level in the other state.

The bill removes the requirement that the other jurisdiction that issued the applicant's license must have substantially similar or more stringent requirements than the licensure requirements in Missouri. Instead, the bill requires that the other jurisdiction must have minimum education requirements and, if applicable, work experience and clinical supervision requirements. If licensure in Missouri requires an examination on the law of Missouri before licensure, then an applicant can be required to take and pass an examination on the laws of Missouri before being granted a license by reciprocity.

The bill explicitly prevents licensure by reciprocity if an applicant has had his or her license revoked in another jurisdiction, is currently under investigation in another jurisdiction, or has a complaint pending in another jurisdiction, or if the applicant does not have a license in good standing in the other jurisdiction or has a criminal record that would disqualify the applicant in Missouri. If another jurisdiction has previously taken disciplinary action against an applicant, the applicant cannot be granted a license by reciprocity until the matter is resolved in the other jurisdiction.

FISCAL DESCRIPTION (continued)

This bill removes a provision that would allow an applicant to be denied a license if granting a license by reciprocity would endanger the public health, safety, or welfare.

Any person who is granted a license by reciprocity is subject to all applicable rules and regulations.

An applicant for licensure by reciprocity can still be required to submit fingerprints in order to access criminal records for purposes not relating to criminal justice.

The provisions of licensure by reciprocity do not apply to a profession that has a licensing compact with another state. A license issued by reciprocity is valid only in Missouri and does not make a licensee eligible to be part of an interstate compact. A person who is licensed in another state by an interstate compact is not eligible for licensure by reciprocity.

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

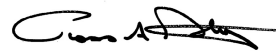
Department of Commerce and Insurance  
Office of Administration  
    Administrative Hearing Commission  
Department of Revenue  
Department of Health and Senior Services  
Department of Natural Resources  
Department of Agriculture  
Department of Transportation  
Department of Public Safety  
    Missouri Highway Patrol  
Department of Higher Education & Workforce Development  
Office of the Secretary of State  
Joint Committee on Administrative Rules  
Office of Administration  
Department of Corrections  
Office of the State Courts Administrator  
Office of the State Public Defender  
Office of Prosecution Services  
Office of the State Treasurer

SOURCES OF INFORMATION (continued)

Department of Public Safety  
Missouri Gaming Commission  
Department of Elementary and Secondary Education



Julie Morff  
Director  
March 3, 2020



Ross Strobe  
Assistant Director  
March 3, 2020