

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5794-02  
Bill No.: HCS for HB 12  
Subject: Crimes and Punishment; Children and Minors; Courts, Juvenile; Firearms  
Type: Original  
Date: August 21, 2020

Bill Summary: This proposal modifies provisions relating to the certification of juveniles for trial as adults.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
General Revenue	(Unknown)	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 9 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>Fully Implemented (FY 2024)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</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>	<b>Fully Implemented (FY 2024)</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</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>Fully Implemented (FY 2024)</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §211.071 - Certification of juvenile for trial as adult

Officials from the **Department of Corrections (DOC)** assume the following:

The proposed legislation does not provide any new penalties or offenses, but increases the likelihood that a juvenile could be transferred to a court of general jurisdiction and sentenced there under section 571.015. It is unknown how many juveniles will be transferred to a court of general jurisdiction; therefore, the department will have to assume an unknown fiscal impact.

Officials at the **Office of State Courts Administrator (OSCA)** state section 211.071 would have the same fiscal impact as SB 793 from the 2018 legislative session that, when effective, raises the age for a juvenile.

**Oversight** notes SB 793 from 2018 authorized provisions relating to juvenile court proceedings and raised the age from 17 to 18. Under the act, no person under the age of 18 may be detained in an adult jail, unless the person has been certified as an adult. The provisions are effective January 1, 2021, and expanding services from age 17 to 18 shall not be effective until an appropriation sufficient to fund the expanded service is provided (§ 211.438).

**Oversight** also notes OSCA submitted a new decision item (1100040) for FY 2022 to expand the service of raising the age from 17 to 18. The NDI estimated the annual costs for 34 Juvenile Officers for the multi-county circuits (\$1,507,968), staff training (\$192,184), and program reimbursements ( $350 \times 3,863 = 1,352,050$ ) as well as \$10,187,476 of reimbursement for single county circuit reimbursements for a grand total of \$13,239,678.

**Oversight** assumes §211.071 may have a fiscal impact to the court system and the juvenile system; however, Oversight does not believe the scope of §211.071 is as broad as SB 793 (2018).

Therefore, for fiscal note purposes, Oversight will present OSCA's impact to the General Revenue Fund as \$0 to (Unknown).

Officials at the **Department of Social Services (DSS)** assume the following:

The removal of § 571.030 as offenses to be certified, ultimately removes the fiscal impact to the Dual Jurisdiction (DJ) program that was estimated for the 01 version. The potential is there for an increase to the traditionally committed youth that are no longer eligible to be certified.

ASSUMPTION (continued)

**Summary:**

Section 211.071 adds language that includes armed criminal action under section 571.015, as offenses that require the court to order a hearing to determine if a child will be transferred to a court of general jurisdiction for prosecution under the general law. Additionally, Section 211.071 modifies the age range in which youth may be certified as an adult from "twelve to eighteen" to "sixteen to eighteen". Section 211.071 is further amended to require an evidentiary probable cause hearing prior to a certification hearing. The division anticipates that enactment of this proposal will have minimal fiscal impact to our dual jurisdiction program as well as minimum potential impact to those youth traditionally committed as outlined below.

**Dual Jurisdiction Commitments:**

DSS notes information received from the Office of State Courts Administrator indicates that in CY 19, the offenses outlined in this proposal under section 571.015 would account for an additional 68 orders for mandatory certification hearings.

Given SB 600 that passed during the 2020 regular legislation session effective August 28, 2020, DYS has altered the initial response to this proposal. Offenses under section 571.015 would require the court to order a hearing to determine if a child will be transferred to a court of general jurisdiction for prosecution, however SB 600 removes the sentencing option of a Suspended Imposition of Sentence (SIS) or Suspended Execution of Sentence (SES) for the offense of armed criminal action (ACA), and with that, removes eligibility for the dual jurisdiction program.

Given the dynamic nature of judicial behavior, it is difficult to quantify how this will impact the dual jurisdiction program. It's also difficult to determine how many of these ACA offenses will be pleaded down and therefore not reach the level of certification. Additionally, it is unknown as to how many of these offenses would have led to certification hearings outside of this proposal. What we know is that this proposal adds to the possibility of more youth being certified, however SB 600 removed the sentencing option that would have allowed these youth to be eligible for the dual jurisdiction program, therefore this proposal lessens the number of eligible youth for the DJ program.

ASSUMPTION (continued)

Additionally what we know is that over the last 5 years, the Division of Youth Services (DYS) has admitted 34 youth into the dual jurisdiction program; of those, 6 have been under 16 years old at the time of commitment. The last three years only saw 1 youth per year admitted under the age of sixteen. Raising the bottom age to sixteen for certification hearings would appear to have a small impact over the number of youth entering into the DJ program but most likely not enough to suggest fiscal impact.

Further modifications under this proposal to §211.071, require an evidentiary probable cause hearing prior to a certification hearing. This is a completely new process and therefore the impact is truly unknown. The assumption would be that this would lower the number of certification hearings and therefore lower the number of youth eligible for consideration for assessments for the dual jurisdiction program, however at this time this would be difficult to quantify.

**Traditional Commitments:**

DSS notes the division believes there is a possibility for those youth no longer eligible for certification due to age restrictions, and by adding an evidentiary probably cause hearing to the process, creates the potential for youth impacted by this proposal to be traditionally committed to DYS.

Given the current number of youth that have been certified under 16 and participating in the dual jurisdiction program that impact appears to be low and the division could most likely absorb those youth that might then enter DYS traditionally given existing capacity.

The division leaves open the idea that, depending on the judicial committing behavior due to changes to certifications requirements, there could be further fiscal impact in the way of increased traditional commitments that could mean opening currently closed and unfunded groups.

**Oversight** does not have an information to the contrary and will, therefore, assume DSS's assumptions as stated.

Officials at the **Office of the State Public Defender (SPD)** assume no fiscal impact from this version of the proposal. The initial language of the bill would have resulted in a significant increase in the number of certifications SPD would be responsible for. The House Committee Substitute would not cause that same significant increase. While additional cases would be eligible for certification, other child clients would no longer be eligible for certification. SPD believes that the bill would not result in a need to increase SPD staff to handle these additional cases.

ASSUMPTION (continued)

**Oversight** received further clarification from SPD regarding their response. The unlawful use of a weapon statute (§571.030) that was included in the 01 version of the proposal would have added numerous crimes that would have required mandatory hearings that are not currently in statute, hence the additional staffing requested by SPD. The 02 version removed this language and increased the age from 12 to 16 year olds for a hearing. With the changes made in the 02 version of the bill, SPD assumes the additional staff requested in the 01 version would not be needed.

**Oversight** gathered additional information from the annual reports on the Missouri Juvenile & Family Division for 2015 to 2018. The data shows the number of juveniles certified by year, as well as the number of certifications to adult court by age, sex and race.

	Total Referrals by Disposition of Juvenile Certified - Felony Allegation	Certification to Adult Court										TOTAL
		By age (14)	By age (15)	By age (16)	By age (17)	By age (18)	By sex (M)	By sex (F)	By race (white)	By race (black)	By race (other)	
2018	42	0	4	12	30	0	45	1	21	23	2	46
2017	63	0	2	25	26	0	51	2	14	39	0	53
2016	89	3	8	23	19	0	52	1	14	38	1	53
2015	47	0	3	23	25	0	49	2	12	38	1	51

Source: Missouri Juvenile & Family Division Annual Reports (2015 to 2018)

§211.600 - Filing and disposition of petitions to certify juveniles

Officials at the **Office of the State Courts Administrator (OSCA)** assume data collection could be done with existing resources. **Oversight** does not have any information to the contrary and will, therefore, reflect a \$0 impact for OSCA for this section of the proposal.

§217.345 - Correctional treatment programs

Officials at the **Department of Corrections (DOC)** state the DOC currently provides programs and educational services to juvenile offenders. The DOC does not anticipate any additional cost/savings from the changes in this section. Additionally, the DOC attempts to offer all offenders within its institutions correctional programming. Therefore, the changes in section 217.345 will not change the programming already provided for offenders.

ASSUMPTION (continued)

**Oversight** does not have any information to the contrary and will, therefore, reflect a \$0 impact for DOC for this section of the proposal.

Bill as a Whole

Officials at the **Office of the Attorney General** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal. 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 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
<b>GENERAL REVENUE FUND</b>				
<u>Costs - OSCA</u> (\$211.071)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs - DOC</u> (\$211.071) increased incarceration costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

### FISCAL IMPACT - Small Business

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

### FISCAL DESCRIPTION

This bill provides that a court may order a hearing for the certification of a child between the ages of 16 and 18 for an offense which would be considered a felony if committed by an adult; except that a court shall order a hearing for the certification of any child alleged to have committed certain felony offenses, including the felony offense of armed criminal action. Before the court holds a hearing authorized under this section to determine if a child should be transferred to the court of general jurisdiction and prosecuted under the general law, the court shall hold an evidentiary probable cause hearing to determine if probable cause exists to proceed with the allegations contained in the petition. The probable cause hearing shall be held after the detention hearing but before the hearing under of this section. The juvenile office shall have the burden of proving probable cause to proceed by a preponderance of the evidence, and the juvenile shall have the right to testify, present evidence, cross-examine witnesses, and present arguments of law and fact with respect to the issue of probable cause.

Additionally, this bill repeals the provision that a child is required to have a certification hearing for the offenses of distribution of drugs or the manufacturing of a controlled substance.

This bill provides that the Office of State Courts Administrator shall collect certain information, as provided in the bill, related to petitions filed to certify juveniles as adults in certain criminal cases. The information collected shall be made publicly available annually.

This bill modifies provisions relating to correctional treatment programs for juvenile offenders. This bill provides that correctional treatment programs for juvenile offenders shall include physical separation of offenders who are younger than 18 years old and shall include educational programs that award a high school diploma or its equivalent.

This proposal contains an emergency clause.

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

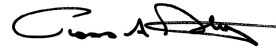


SOURCES OF INFORMATION

Attorney General's Office  
Department of Corrections  
Department of Social Services  
Missouri Office of Prosecution Services  
Office of State Courts Administrator  
State Public Defender's Office



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