

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0180-02
Bill No.: Perfected HCS for HB 189
Subject: Alcohol; Business and Commerce; Licenses - Liquor and Beer
Type: Original
Date: April 2, 2019

Bill Summary: This proposal modifies provisions relating to activities extended to persons found guilty of certain criminal offenses.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	Could exceed (\$582,636)	Could exceed (\$412,736)	Could exceed (\$416,923)
Total Estimated Net Effect on General Revenue	Could exceed (\$582,636)	Could exceed (\$412,736)	Could exceed (\$416,923)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Federal	\$0 or (\$26,000,000)	\$0 or (\$52,000,000)	\$0 or (\$52,000,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (\$26,000,000)	\$0 or (\$52,000,000)	\$0 or (\$52,000,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	6 FTE	6 FTE	6 FTE
Total Estimated Net Effect on FTE	6 FTE	6 FTE	6 FTE

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 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§311.060, 311.660 and 313.220 - Activities extended to persons found guilty of criminal offenses

Oversight notes that the **Department of Public Safety - Alcohol and Tobacco Control** 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 for these sections.

In response to a previous version, **Oversight** notes that officials of the **Department of Revenue** and the **Lottery Commission** stated the proposal would not have a direct 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.

House Amendment (HA) 1:

Oversight notes that the **Department of Corrections (DOC)** has stated the amendment would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary.

Oversight assumes this will have no fiscal impact on state or local governments.

House Amendment (HA) 2:

In response to a similar proposal (SB 393), officials from the **Department of Social Services (DSS), MO HealthNet Division (MHD)** stated this amends chapters 217 and 221, RSMo. This legislation requires MHD-benefits of offenders in correctional facilities and jails to be suspended rather than terminated. These benefits shall be restored upon release until such time as the person is determined to no longer be eligible for the program.

Currently, when the Family Support Division (FSD) is notified that an individual has become incarcerated, MHD eligibility is closed and a new application is required upon release. The FSD has a Memorandum of Understanding (MOU) in place with the Missouri Department of Corrections (DOC) to accept applications facilitated by the DOC when an individual is temporarily released to receive inpatient treatment for twenty-four hours or longer and when an inmate is expected to be permanently released. The DOC facilitates the application process on behalf of FSD for certain inmates within its custody who would appear to meet all factors for

ASSUMPTION (continued)

eligibility and coverage for MHD and assists in completing the necessary forms for application. FSD notifies the inmate in writing when the eligibility determination is complete of its decision regarding eligibility for MHD benefits.

In State Fiscal Year (SFY) 2018, the FSD closed MHD eligibility for 1,124 individuals due to incarceration and determined 461 individuals eligible for MHD benefits upon release. Of the 461 individuals determined eligible upon release, 155 were due to a temporary release of at least twenty-four hours for inpatient treatment and 306 were due to permanent release.

The proposed changes do not change MHD eligibility criteria established by Centers for Medicare & Medicaid Services (CMS) and participants will still need to meet all program eligibility requirements in order to keep active and/or suspended MHD benefits. To ensure the proper eligibility is determined, the FSD completes a review when there is a change in circumstances. An individual becoming incarcerated is a change in circumstance and when a participant with active or suspended coverage no longer meets the criteria for his or her current program benefits, FSD will explore an ex parte review to determine if the participant qualifies for coverage under another MHD program. If the individual does not qualify for coverage under another MHD program, their coverage will be closed. If the individual qualifies for coverage under another MHD program, they will be moved to the proper program. Therefore, "restored" coverage refers to the activation of coverage. However, this may not be at the same level as when the individual became incarcerated due to a change in circumstances. The FSD will continue to work with the DOC and will also work with county, city, and private jails to facilitate applications and eligibility reviews of incarcerated individuals to determine eligibility.

The provisions of this bill do not affect any provisions relating to eligibility for any benefits from any program FSD administers. Therefore, there is no fiscal impact to FSD. Because FSD only determines eligibility for covered services, FSD defers to MHD regarding any services or medical expenses the participant may incur during periods of suspended coverage.

Currently, MHD has a process for persons that are incarcerated, but it involves starting and stopping their eligibility. In order to add a process to suspend eligibility, new system work would need to be created. This system work would include creating lock in segments for all incarcerated members. MHD does not pay for services while individuals are incarcerated. When they are admitted into the hospital or when they are released from prison, the lock in would have to be ended and a new lock in created for the date when/if they return to prison. Also, MHD would have to update the eligibility verification responses sent to providers to reflect the lock in to prison. This would require Medicaid Management Information System (MMIS) system modifications costing up to \$500K to MHD. This would be calculated at a 75/25 split. Plus, additional staff time would be needed to manually add and close the lock-ins described above. This is estimated to be approximately 4 extra hours a month. These duties could be

ASSUMPTION (continued)

handled by a Management Analysis Specialist II (MAS II). At approximately \$22/hr for a MAS II, the total administrative costs associated with this legislation would be \$1,056 (\$22/hr*4 hrs*12 months) per year. It is assumed that MHD could absorb these costs with a MAS II already on staff.

Oversight contacted DSS staff regarding the \$500,000 in system modifications that would be needed. DSS assumes it would have to issue a request for proposal and get bids for the modifications that would be needed. Oversight contacted officials with the Office of Administration, Division of Purchasing and Materials Management (DPMM). DPMM officials indicated that a request for proposal would have to be submitted and bids received for these system modifications.

In addition, Oversight contacted DSS officials regarding any potential savings as a result of not having to process Medicaid applications for offenders being released from prison because benefits were suspended rather than terminated. Officials indicated the DSS would still need to go through a re-verification process to determine whether an individual would be eligible for benefits upon release. Any savings would be very small and there is no way to track the potential savings. Re-verification would still have to be performed manually for each offender being released from prison/jail to determine eligibility.

Oversight does not have any information to the contrary. Oversight assumes the MHD has sufficient staff and resources to absorb the additional duties required by this proposal to manually add and close the lock-ins described in their response. However, Oversight will reflect the costs for MMIS modifications provided by DSS for fiscal note purposes.

Officials from the **Department of Corrections (DOC)** defer to the DSS for any impact related to this proposal.

Oversight notes this legislation appears to require the DOC to notify DSS within 20 days of an offender on Medicaid coming to prison and to notify them within 45 days of the offender leaving prison. This will be less burdensome than the current process. This bill should provide qualifying offenders access to the medical and mental health care they need immediately upon release which may increase their probability of success in the community. This bill could immensely aid re-entry purposes and continuation of care.

The bill does not specify how the DOC determines if a person is receiving benefits under MO HealthNet. Therefore, it is unclear how this practice will be implemented.

ASSUMPTION (continued)

Oversight does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact for DOC as provided by the DOC for fiscal note purposes.

Oversight notes that the **City of Kansas City**, the **Joplin Police Department**, the **Springfield Police Department**, the **St. Louis County Police Department**, and the **St. Louis County Department of Justice Services** stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other sheriffs' offices, police departments, and the City of Columbia were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

Oversight notes this proposal could have positive benefits to the state (including savings related to not having to process MoHealthnet applications once prisoners are released from prison and the potential reduced recidivism rates if newly-released inmates have access to health insurance immediately upon release) and to certain persons recently released from confinement in a prison or jail. Oversight assumes these benefits are indirect impacts and will not reflect them in the fiscal note.

House Amendment (HA) 3:

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** state to build a base validation process between the Office of State Courts Administrator (OSCA) and the MHP, the Criminal Justice Information Services Division (CIJSD) estimates a \$100,000 vendor cost. It would be extremely difficult for the MHP to programmatically complete the validation process; therefore, additional personnel would be required. To provide system logic for the validation process would exponentially increase the cost to account for the various criteria as outlined in the bill. The MHP estimates that 442,162 individuals could qualify for limited dissemination per this bill's criteria. The MHP anticipates limited access relief to be similar to the workload required to process expungements, therefore, two (2) CJIS Technicians III, Title Code: V00675, Pay Range: 20. In addition to verify and process the records, an additional four (4) quality control FTEs (CJIS Technician III, Title Code: V00675, Pay Range: 20) would be needed.

Oversight does not have any information contrary to that provided by MHP. Therefore, Oversight will reflect MHP's impact for fiscal note purposes.

ASSUMPTION (continued)

In response to a similar proposal (HB 591), officials from the **Department of Transportation (MoDOT)** stated Missouri's share of federal highway funds are placed at risk if this bill were to become law with its current language intact because the language creates a variance with federal motor carrier safety regulations, specifically having to do with commercial driver's licensing. 49 C.F.R. §384.226 prohibits the state from masking, deferring imposition of judgment or allowing an individual to enter into a diversion program that would prevent a CLP or CDL holder's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the CDLIS driver record, whether the driver was convicted for an offense committed in the state where the driver is licensed or another state. It appears that these convictions would be subject to limited access under HB 591. The consequences for noncompliance with 49 C.F.R. §384.226 could mean the withholding of federal funds as outlined in 49 C.F.R. §§384.401 and 384.403. The Department of Revenue (DOR) is responsible for entering/monitoring compliance in the CDLIS driver record. However, if DOR is not in compliance and federal funds are withheld, MoDOT will be negatively impacted because MoDOT is the recipient of these funds.

Expunging convictions could hide information about a driver required under Federal Motor Carrier Safety Regulations regarding commercial driver's licenses. If Missouri creates a variance with federal law regarding CDLs, the state could incur penalties until the situation is rectified.

The penalties are stated in 49 CFR §384.401. as follows:

4 percent of U.S.C. Title 23, Section 104 (b)(1), (b)(3) and (b)(4) = \$26 million
8 percent of U.S.C. Title 23, Section 104 (b)(1), (b)(3) and (b)(4) = \$52 million

Oversight does, however, note the U.S. Department of Transportation will make the final decision on whether the language in this proposal creates a variance from federal regulations. Oversight will show an impact to Federal Funds as \$0, the proposal is not against federal regulation, or (\$26,000,000), the proposal makes Missouri out of compliance.

In response to a similar proposal (HB 591), officials from the **Office of State Courts Administrator (OSCA)** stated there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a \$0 to (Unknown) fiscal impact to the General Revenue Fund for OSCA for fiscal note purposes.

ASSUMPTION (continued)

Oversight notes that the **Department of Corrections (DOC)** 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.

In response to a similar proposal (HB 591), **Oversight** notes that the **Department of Corrections, Department of Social Services, Department of Conservation, Office of Administration and State Public Defender's Office** stated the proposal would not have a direct fiscal impact on their organizations.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Bill as a whole

Oversight notes that the **Department of Public Safety - Alcohol and Tobacco Control, Department of Health and Senior Services, Department of Labor and Industrial Relations and Missouri Office of Prosecution Services** have stated the proposal would not have a direct fiscal impact on their 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 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Costs - DSS (§§217.930 and 221.125)</u>			
MMIS system modifications HA 2 p. 4	(\$125,000)	\$0	\$0
<u>Costs - MHP (§§43.508, 610.078-610.090) HA 3 p. 6</u>			
Personal services	(\$178,200)	(\$215,978)	(\$218,138)
Fringe benefits	(\$159,044)	(\$192,760)	(\$194,688)
Equipment	(\$17,142)	\$0	\$0
Expenses	(\$103,250)	(\$3,998)	(\$4,097)
<u>Total Costs - MHP</u>	(\$457,636)	(\$412,736)	(\$416,923)
FTE Change - MHP	6 FTE	6 FTE	6 FTE
<u>Costs - OSCA (§§43.508, 610.078 - 610.090; 610.132 and 610.140) - Increase in court operation expenses HA 3 p. 7</u>			
	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Could exceed</u> <u>(\$582,636)</u>	<u>Could exceed</u> <u>(\$412,736)</u>	<u>Could exceed</u> <u>(\$416,923)</u>
Estimated Net FTE change for the General Revenue Fund	6 FTE	6 FTE	6 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2020 (10 Mo.)	FY 2021	FY 2022
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FEDERAL FUNDS

Income - DSS (§§217.930 and 221.125)

Program reimbursements for MMIS modifications HA 2 p. 4	\$375,000	\$0	\$0
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Costs - DSS (§§217.930 and 221.125)

MMIS system modifications HA 2 p. 4	(\$375,000)	\$0	\$0
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Loss - MoDOT ((§§43.508, 610.078-610.090) HA 3 p. 7

Potential reduction in federal funding	<u>\$0 or</u> (\$26,000,000)	<u>\$0 or</u> (\$52,000,000)	<u>\$0 or</u> (\$52,000,000)
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**ESTIMATED NET EFFECT ON
FEDERAL FUNDS**

	<u>\$0 or</u> <u>(\$26,000,000)</u>	<u>\$0 or</u> <u>(\$52,000,000)</u>	<u>\$0 or</u> <u>(\$52,000,000)</u>
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FISCAL IMPACT - Local Government

	FY 2020 (10 Mo.)	FY 2021	FY 2022
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Certain small businesses that sell intoxicating liquor and/or lottery tickets could be impacted by this proposal.

FISCAL DESCRIPTION

§§217.930 and 221.930

Under this act, MO HealthNet benefits shall be suspended, rather than cancelled or terminated, for offenders entering into a correctional facility or jail if the Department of Social Services is notified of the person's entry into the correctional center or jail, the person was currently enrolled in MO HealthNet, and the person is otherwise eligible for MO HealthNet benefits but for his or her incarcerated status. Upon release from incarceration, the suspension shall end and the person shall continue to be eligible for MO HealthNet benefits until such time as he or she is otherwise

FISCAL DESCRIPTION (continued)

ineligible.

The Department of Corrections shall notify the Department of Social Services within 20 days of receiving information that a person receiving MO HealthNet benefits is or will become an offender in a correctional center or jail and within 45 days prior to the release of such person whose benefits have been suspended under this act. City, county, and private jails shall notify the Department of Social Services within 10 days of receiving information that person receiving MO HealthNet benefits is or will become an offender in the jail.

§§43.508, 610.078, 610.080, 610.082, 610.084, 610.086, 610.088, and 610.090

This bill specifies that, prior to releasing criminal history information to a noncriminal justice agency, certain information must be redacted, as specified in the bill.

The bill provides that an individual who has been free from a felony conviction for more than 10 years may petition the court where the conviction occurred, for access to his or her criminal record be limited as specified in the bill. The offense must have a maximum penalty of no more than five years.

There are specific convictions and certain individuals for which limited access to criminal records will not be granted. The bill establishes which types of records will be subject to limited access, and provides that, upon petition of a prosecuting attorney to the court where a conviction occurred, a court will vacate an order for limited access granted under these provisions if the court determines that the order was erroneously entered.

An individual will not be required or requested to disclose information about his or her criminal history record that has been provided limited access, subject to exceptions in the bill. This shall not apply if federal law requires the consideration of an applicant's criminal history for purposes of employment. A record subject to limited access under this bill will not be considered a conviction that would prohibit the employment of a person under any law that prohibits employment based on state convictions.

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 Corrections
Department of Conservation
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Transportation
Department of Public Safety -
 Alcohol and Tobacco Control
 Missouri State Highway Patrol
Department of Revenue
Department of Social Services
Lottery Commission
Missouri Office of Prosecution Services
Office of Administration
Office of State Courts Administrator
State Public Defender's Office
City of Kansas City
Joplin Police Department
Springfield Police Department
St. Louis County Police Department
St. Louis County Department of Justice Services



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Director
April 2, 2019

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April 2, 2019