

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1211-03  
Bill No.: SCS for HCS for HB 734  
Subject: Children and Minors  
Type: Original  
Date: May 6, 2015

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Bill Summary: This proposal prohibits sharing of visual or aural recordings or photographs of a minors alleged to be victims of child abuse, except in limited circumstances.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</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 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on FTE</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 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §37.719

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation this year, HB 1074, officials at the **Callaway County** and **St. Louis County** each assumed there is no fiscal impact to their respective organization from this proposal.

In response to similar legislation this year, HB 1074, officials at the **Office of Administration's Office of Child Advocate's (OCA)** assumed this would expand their office. It would give them authority to conduct a review of any entity within a county including the Children's Division, juvenile office or guardian ad litem and OCA would need two additional investigators at \$60,000 plus benefits and related expenses of \$5,830.

**Oversight** assumes the proposal could have an unknown fiscal impact on the Office of Child Advocate if it decides to audit a judicial circuit that has three or more review requests in a fiscal year. However, since the bill is permissive Oversight assumes the proposal will have no fiscal impact.

#### §§135.341, 210.001, 210.148, 455.230, 492.304

Officials at the **Office of the State Courts Administrator**, the **Department of Social Services**, the **Department of Mental Health**, the **Office of Prosecution Services**, the **Department of Health and Senior Services** and the **Department of Public Safety's Missouri Highway Patrol** each assume no fiscal impact to their respective agencies from this proposal.

#### §§566.210, 566.211, 566.212, 566.213

Officials from the **Department of Public Safety - Missouri Highway Patrol**, the **Office of Prosecution Services**, and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

Officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons face the enhanced crime of sexual trafficking of a child to include advertising a child participating in a commercial sexual act.

ASSUMPTION (continued)

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Corrections (DOC)** state this bill expands the crime of sexual trafficking of a child to include advertising a child participating in a commercial sexual act.

Four statutes are amended: 566.210 - Sexual trafficking of a child 1st degree, 566.211 - Sexual trafficking of a child 2nd degree, 566.212 - Sexual trafficking of a child and 566.210 - Sexual trafficking of a child under 12.

The effect of the additional wording on conviction rates is not known but a count of the prison admissions that the DOC has received for these four offenses in the last four years found only one admission for sexual trafficking of a child and the offender was convicted of the attempt of the offense and sentenced to the Sex Offender Assessment Unit and released to probation after 120 days.

Because of the low number of admissions, it is expected that the additional wording will not result in a significant increase in prison admissions. The prediction is that the DOC will receive one new admission per year and the offenders will be sentenced to a class A felony with a sentence of 10 years and will serve 7 years in prison and 3 years on parole. Offenders sentenced for these offenses will be required to complete the Missouri Sex Offender Program and such offenders are normally released on the conditional release date (67% of sentence). The impact after 10 years is an increase in the prison population of 7 and an increase in the field population of 3.

The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class A felony. Based upon historical data, we assume that approximately 1 offender per year would be sentenced to incarceration under this new legislation with a cumulative effect of a total of 7 offenders by year 7. Offenders sentenced as a result of this legislation will not be eligible for supervision until year 8 and an addition offender would be eligible for each year thereafter.

ASSUMPTION (continued)

The FY14 average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender.

In summary, DOC assumes an additional cost of \$5,088 in FY 2016, \$12,454 in FY 2017, \$19,055 in FY 2018, and up to \$59,892 in FY 2025.

**Oversight** assumes the DOC could absorb these amounts within their current appropriation levels and will not reflect an additional fiscal impact from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<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

This bill specifies that the Office of the Child Advocate must have the authority to conduct a review of any entity within a county that has experienced three or more review requests in a calendar year and to make the necessary inquiries and review relevant information in order to conduct the reviews. The office may make recommendations on changes to any entity's policies and procedures in order to improve the delivery of services or the function of the entity. Upon completing a review, the office must submit any findings and recommendations to the Children's Division in the Department of Social Services and the Office of State Courts Administrator.

The bill defines "multidisciplinary investigation team" as a team used to investigate child abuse and provide protective or preventive social services including the services of law enforcement, the Children's Division, the prosecuting attorney, the child advocacy center, the juvenile center, the medical provider, the mental health provider, and other agencies with a common mission of achieving victim safety and perpetrator accountability and who have entered into an agreement to maintain confidentiality as required by law, both public and private.

The bill prohibits any health care provider, child advocacy center, or multidisciplinary investigation team from providing to any person or entity copies of visual or aural recordings or photographs of a minor or his or her body who is alleged to be the victim of child abuse unless ordered by a court of competent jurisdiction. Members of the team may share the recordings of the child's statements or photographs with other members of the team for the purposes of investigation, related child protection court proceedings or prosecution, as a part of specified reviews by the Office of the Child Advocate, or as part of specified reviews by the Child Abuse and Neglect Review Board.

Subject to the provisions of the Missouri Supreme Court's discovery rules, a court is prohibited from ordering the copying of the recordings or photographs unless it does so after a hearing has been held and notice to the parties given, at which the child or his or her representative, health care provider, child advocacy center representative, or team member may present and offer objections or suggestions for the court. Upon a showing of good cause, the court may order the provider, advocacy center, or team member to copy the recordings or photographs to the moving party's counsel of record or specified experts who have been duly qualified by the court in the evaluation or medical diagnosis of child abuse.

FISCAL DESCRIPTION (continued)

If a court orders the copying of the recordings or photographs, the order must be limited solely to the use of the recordings or photographs for the purposes of a current or pending court proceeding; prohibit further copying, reproduction, or dissemination of the recordings or photographs; prohibit the moving party's counsel of record or specified experts from allowing any other person copies of the recordings or photographs without a court order; and require the return of the copies to the provider, advocacy center, or team member upon the end of the counsel or expert's involvement in the relevant case or the final disposition of the case unless the copies have become part of the official court record, whichever comes first. A prosecuting attorney may request the court to grant a protective order regarding the material disclosed under these provisions if he or she feels the request is appropriate. These provisions cannot prohibit the court or a multi disciplinary member from granting access to viewing, but not copying, the recordings or photographs as part of a pending related matter in front of the court involving an alleged victim of child abuse or as part of specified reviews by the Child Abuse and Neglect Review Board.

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

Callaway County  
Office of Administration  
    Office of Child Advocate  
Office of the State Courts Administrator  
St. Louis County  
Department of Social Services  
Department of Mental Health  
Office of Prosecution Services  
Department of Health and Senior Services  
Department of Public Safety  
    Missouri Highway Patrol  
Office of the State Public Defender  
Department of Corrections



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May 6, 2015

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