

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4183-03  
Bill No.: SCS for SB 448  
Subject: Health Dept.; Children and Minors  
Type: Original  
Date: April 16, 2012

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Bill Summary: Establishes “Sam Pratt’s Law” and “Nathan’s Law” and modifies provisions relating to child care providers.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(Unknown greater than \$200,000)	(Unknown greater than \$200,000)	(Unknown greater than \$200,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown greater than \$200,000)</b>	<b>(Unknown greater than \$200,000)</b>	<b>(Unknown greater than \$200,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
<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 10 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</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 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
General Revenue	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on FTE</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration (OA) - Administrative Hearing Commission, Office of State Courts Administrator, Department of Mental Health, and Department of Public Safety (DPS) - Missouri State Highway Patrol** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **COA - Division of Budget and Planning (BAP)** state the proposed legislation should not result in additional costs or savings to the BAP. However, the additional penalty provision in section 210.245, RSMo, will impact total state revenue, but not the Article X, Section 18(e) cap, by an unknown amount.

Officials from the **DPS - Division of Fire Safety (DFS)** state the DPS - DFS is responsible for fire safety inspections in all state licensed facilities to include licensed day care homes. This proposal changes the licensing requirement for day care homes by including children related by blood, marriage or adoption to be included in the total number of children being cared for. If this proposal is enacted, it will greatly increase the number of home day care inspections the DFS will be responsible for.

Based on information from the Department of Social Services, there is an unknown number of licensed child care providers who would be required to be licensed. It can be assumed, however, that additional Fire Safety Inspectors would be needed in order to conduct fire safety inspections in order for the day care homes to meet licensing requirements. Additional expense and equipment funding would also be required. Therefore, the DFS estimates an impact of unknown, greater than \$100,000 annually to the General Revenue Fund.

Officials from the **Department of Corrections (DOC)** state penalty provisions for violations, the component of the proposal to have potential fiscal impact for the DOC, is for a class A misdemeanor. The DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational costs through supervision provided by the Board of Probation and Prolongation (FY 11 average of \$5.12 per offender, per day, or

ASSUMPTION (continued)

an annual cost of \$1,869 per offender). Therefore, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal will have no measurable fiscal impact on the OPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

**Oversight** assumes the potential responsibilities imposed on county prosecutors as a result of this proposal, will be absorbable within current funding and staffing levels.

For the purposes of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with new crimes.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the SPD system to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific proposal, the SPD will continue to request sufficient appropriations to provide competent and effective representation for all its cases.

**Oversight** assumes the SPD could absorb the costs of the proposed legislation within existing resources. **Oversight** assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the **Department of Elementary and Secondary Education (DESE)** state there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Social Services (DSS)** state while this proposal will impact license exempt child care providers, the Children's Division does not anticipate a fiscal impact. However, it should be noted that 210.025, RSMo, affords provisions to prohibit license exempt

ASSUMPTION (continued)

family home child care providers from participating in the Child Care Subsidy program if they (the provider) or any member of their household age 17 or older have a criminal background with specified convictions, or a child abuse/neglect finding of substantiated, probable cause, or preponderance of the evidence.

Officials from the **Department of Health and Senior Services (DHSS)** provide the following assumptions:

Section 210.211.1(1)

According to the Department of Social Services, there was an average of 3,223 registered unlicensed child care providers during FY 2011. The DHSS is unable to estimate the number of unlicensed child care providers that are not registered and, therefore, assumes that an unknown number of child care providers will be required to be licensed as a result of the proposed legislation.

The Division of Regulation and Licensure (DRL) is responsible for the inspection, licensure, and regulation of child care programs in Missouri. Inspectors conduct inspections of licensed child care programs semi-annually and complaint investigations as needed.

In addition to the inspections conducted by DRL, the Division of Community and Public Health conducts safety and sanitation inspections for licensed child care providers at the time of licensure and annually thereafter.

Section 210.245.1

The proposed legislation imposes a fine of two hundred dollars per day, not to exceed a total of ten thousand dollars for any person that violates the child care licensure provisions set forth in sections 210.201 to 210.245 for a second or subsequent time. The department assumes an unknown increase in General Revenue as a result of the imposition of increased fines.

Section 210.265

The proposed language in Section 210.265.2 authorizes DRL, if notified of or if it discovers that a child care provider exempt from the licensure requirements of Sections 210.201 to 210.211 has any pending criminal charges for the abuse or neglect of a child against such child care provider, to conduct an investigation of the child care provider in the same manner as such an investigation would occur for a licensed child care provider. This language also provides that child care programs maintained or under the exclusive control of a religious organization are exempt from this requirement.

ASSUMPTION (continued)

Chapter 210, RSMo, provides for numerous exemptions from licensure, including persons caring for four or fewer children who are not related to the provider within the third degree; school systems; and businesses that operate a child care program as a convenience to their customers or employees for more than four hours per day. This chapter also provides that religious programs operating a child care program are exempt from licensure; however they are required to be inspected for health and safety, fire safety, and sanitation annually. DHSS' Section for Child Care Regulation (SCCR) is not able to estimate the number of providers in these categories in order to estimate the number of potential investigations that may be required. The DHSS estimates the cost of conducting an investigation for a childcare facility to be approximately \$392 per inspection. However, since these individuals are exempt from licensure, the SCCR does not currently regulate or inspect these individuals. Therefore, the impact of the legislation is anticipated to result in an unknown cost to DHSS.

Summary

The proposed legislation would result in the need for additional inspectors. Due to the unknown number of child care providers that will be required to be licensed and the unknown number of investigations that will be required, the DHSS estimates an impact of (Unknown, > \$100,000) annually. The department further estimates that as a result of the imposition of increased fines, the proposed legislation will cause an unknown increase in General Revenue.

**Oversight** assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

FISCAL IMPACT - State Government                      FY 2013                      FY 2014                      FY 2015  
 (10 Mo.)

**GENERAL REVENUE FUND**

**§§210.211 and 210.245**

Costs - Department of Health and Senior Services

Program costs	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>
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**§210.265**

Costs - Department of Health and Senior Services

Personal Service	(Unknown)	(Unknown)	(Unknown)
Fringe Benefits	(Unknown)	(Unknown)	(Unknown)
Equipment and Expense	(Unknown)	(Unknown)	(Unknown)
Program Costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
Total <u>Costs</u> - DHSS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FTE Change - DHSS                      Unknown FTE                      Unknown FTE                      Unknown FTE

Costs - Department of Public Safety - Division of Fire Safety

Personal Service	(Unknown)	(Unknown)	(Unknown)
Fringe Benefits	(Unknown)	(Unknown)	(Unknown)
Equipment and Expense	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
Total <u>Costs</u> - DPS-DFS	<u>(Unknown greater than \$100,000)</u>	<u>(Unknown greater than \$100,000)</u>	<u>(Unknown greater than \$100,000)</u>

FTE Change - DPS-DFS                      Unknown FTE                      Unknown FTE                      Unknown FTE

**ESTIMATED NET EFFECT ON GENERAL REVENUE FUND**

<b><u>(Unknown exceeding \$200,000)</u></b>	<b><u>(Unknown exceeding \$200,000)</u></b>	<b><u>(Unknown exceeding \$200,000)</u></b>
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Estimated Net FTE Change for General Revenue Fund                      Unknown FTE                      Unknown FTE                      Unknown FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

**Sections 210.211 and 210.245**

In order to maintain and operate a child care facility, child care providers who currently care for related children will be required to have a license granted by the Department of Health and Senior Services if they care for more than four children.

**Section 210.265:**

If pending criminal charges against an unlicensed child care provider would similarly result in the sanction of the license of a licensed child care provider based on such pending criminal charges, the unlicensed provider would be prohibited from continuing to provide child care services in Missouri until the pending criminal charges are resolved in favor of the unlicensed child care provider.

FISCAL DESCRIPTION

SAM PRATT'S LAW

This proposal authorizes the Department of Health and Senior Services to investigate child care providers who are exempt from licensure if the department learns or is notified that such provider has pending criminal charges for the abuse or neglect of a child against such child care provider. There is an exemption for any child care provider maintained or operated under the exclusive control of a religious organization, as described in current law.

The department is also authorized to prohibit a licensure exempt child care provider from continuing to provide child care services if there are pending criminal charges against him or her that would similarly result in licensure actions for a licensed child care provider. Such licensure exempt provider shall be prohibited from continuing services pending a resolution of such criminal charges in favor of the provider.

Any licensure exempt child care provider who continues to provide child care services after notification by the department to stop such services shall be guilty of a Class B misdemeanor for the first violation and a Class A misdemeanor for any subsequent violation.

The department shall report any known violation to an appropriate prosecuting attorney's office or law enforcement agency ( Section 210.265).

FISCAL DESCRIPTION (continued)

NATHAN'S LAW

Under current law, a child care provider may be exempt from licensure if the person is caring for four or fewer children and children who are related to the provider are not considered in the total number of children being cared for. This proposal provides that such relative children shall be included in the total number of children being counted, except that children of such person who live in the home and attend school for a full school day shall not be included in the total number cared for. Any child-care facility exempt from licensure shall disclose the licensure-exempt status to the parents or guardians of children for which the facility provides care.

This proposal increases the penalty for violations of child care licensure provisions to include a fine of two hundred dollars per day, not to exceed a total of ten thousand dollars for subsequent offenses.

This proposal also authorizes the Department of Health and Senior Services to immediately close any illegally operating unlicensed child-care facility. The prosecuting attorney of the county where such illegal child-care facility is located may file suit for a permanent order preventing the operation of a child-care facility. The order shall remain in effect until such time as the court determines that the child-care facility is in compliance with all licensure requirements. Any person who operates an illegal unlicensed child-care facility shall be subject to penalties prescribed under the proposal (Sections 210.209, 210.211, 210.245).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements.

SOURCES OF INFORMATION

Office of Attorney General  
Office of Administration -  
    Administrative Hearing Commission  
    Division of Budget and Planning  
Office of State Courts Administrator  
Department of Elementary and Secondary Education  
Department of Mental Health  
Department of Corrections  
Department of Health and Senior Services  
Department of Social Services

HWC:LR:OD

SOURCES OF INFORMATION (continued)

Department of Public Safety -  
    Division of Fire Safety  
    Missouri State Highway Patrol  
Office of Prosecution Services  
Office of State Public Defender



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