

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0342-01
Bill No.: HB 100
Subject: Abortion; Health Care; Health Department; Medical Procedures and Personnel
Type: Original
Date: February 15, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator**, the **Office of Prosecution Services**, the **State Public Defender**, and the **Department of Health and Senior Services** assume this proposal would not fiscally impact their agencies.

Officials from the **Office of Attorney General (AGO)** assume this proposal would create a fiscal impact. The AGO further assumes that costs cannot be estimated due to insufficient information as to the potential number of injunctive actions that may be required to be filed.

Oversight assumes AGO could absorb any additional costs.

Officials from the **Department of Corrections (DOC)** assume this proposal enhances crime criteria (inducing an abortion) that is punishable by up to a class B felony.

Currently, the DOC cannot predict the number of new commitments which may result from the addition of substances to the controlled substance schedule outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

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 cost either through incarceration (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, DOC assumes the impact would be less than \$100,000 per year for their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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GENERAL REVENUE

<u>Costs - Department of Corrections</u>			
Probation or Incarceration costs	<u>(Less than</u> <u>\$100,000)</u>	<u>(Less than</u> <u>\$100,000)</u>	<u>(Less than</u> <u>\$100,000)</u>

ESTIMATED NET EFFECT TO GENERAL REVENUE	<u>(Less than</u> <u>\$100,000)</u>	<u>(Less than</u> <u>\$100,000)</u>	<u>(Less than</u> <u>\$100,000)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<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.

DESCRIPTION

This proposal adds the definitions of "department" and "medical emergency" to the laws regarding regulation of abortions. It specifies that the term "next friend" as it relates to consent

DESCRIPTION (continued)

to abortion for minors does not include another minor child or any person who has a financial interest or personal gain from a minor's decision to have an abortion.

A penalty provision is revised pertaining to the performance of actions contrary to current law and the nonperformance of required actions under current law. It establishes the defense of performing or not performing an action because of a medical emergency. Under current law, a physician who performs an abortion and does not have surgical privileges at a hospital that offers obstetrical or gynecological care is guilty of a class B felony. The proposal specifies that a physician who performs an abortion and does not have clinical privileges to provide obstetrical or gynecological care at a hospital within 30 miles of the location where the abortion is performed is guilty of a class B felony.

The proposal also prohibits a person from intentionally causing, aiding, or assisting a minor to obtain an abortion without consent from a parent or a judicial decree. Any person who is subject to the jurisdiction of the State of Missouri and violates this provision will be civilly liable to persons adversely affected by the action. If civil liability is established, a court may award damages, including compensation for emotional injury, attorney fees, and court costs to any person adversely affected. However, damages may not be awarded to any person who has committed rape or incest or has knowingly allowed rape or incest to be committed against a minor who obtains an abortion.

A person is not allowed to assert as a defense a claim that the abortion was performed in accordance with the required consent of the state or the place where the abortion was performed. The proposal also prohibits an unemancipated minor from having the capacity to consent to any action in violation of the bill or Section 188.028, RSMo.

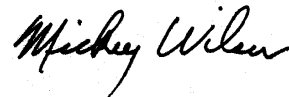
A court may enjoin conduct in violation of the proposal upon a petition by the Attorney General, a prosecuting attorney, a circuit attorney, or a person adversely affected or who may be adversely affected. In order for a court to enjoin any violation, the proposal requires that there must be a showing that the conduct has occurred in the past and that it is not unreasonable to expect that it will be repeated or that it is reasonably anticipated to occur in the future.

An establishment that performs or induces second- or third-trimester abortions or five or more first-trimester abortions per month is added to the definition of "ambulatory surgical center" for the purpose of regulating these centers.

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

Office of State Court Administrator
Office of Attorney General
Department of Health and Senior Services
Office of Prosecution Services
State Public Defender
Department of Corrections



Mickey Wilson, CPA
Director
February 15, 2005