

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1011-01  
Bill No.: HB 294  
Subject: Mental Health; Mental Health Department, Veterans.  
Type: Original  
Date: February 17, 2005

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(\$66,666,476 to Unknown)	(\$83,146,284 to Unknown)	(\$85,227,590 to Unknown)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$66,666,476 to Unknown)</b>	<b>(\$83,146,284 to Unknown)</b>	<b>(\$85,227,590 to Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
<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 2006</b>	<b>FY 2007</b>	<b>FY 2008</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 LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Health and Senior Services, Office of the State Courts Administrator, Office of Administration - Administrative Hearing Commission** and the **Department of Public Safety - Director's Office** each assume the proposal will not fiscally impact their respective agencies.

Officials from the **Office of Administration - General Services Risk Management (COA)** state the proposal subjects the state to cost of damages resulting from personal injuries of Veterans Homes and Mental Health employees where the Act has been violated. The proposal has the potential for costs to the State Legal Expense Fund that cannot be determined at this time. To date, no payments have been made under the State Legal Expense Fund, and COA was not able to quantify any costs at this time.

Officials from the **Missouri Veterans Commission (VET)** state the proposal would require minimum staffing levels at Missouri Veterans Homes. The VET states the required hours of care to meet the minimum staffing levels were compared to available hours per year per nursing assistant to calculate the increase in staff needed. In order to meet the two ratios specified in the proposal (1 staff for every 8 beds for the day and evening, and 1 staff for every 10 beds for the

ASSUMPTION (continued)

night shift), the VET estimates the need for an additional 125.96 nursing assistant Is (each at \$22,277 annually) as well as an additional 9.02 FTE nursing assistants IIs (each at \$24,981 annually) as a result of this proposal. The VET assumes a total annual cost resulting from this proposal of over \$3 million per year.

**Oversight** has, for fiscal note purposes only, changed the starting salary for the VET positions to the first step for FY 06 and the second step for subsequent years to correspond to comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials from the **Office of the Attorney General (AGO)** assume that this proposal will create a fiscal impact on their agency.

The proposal makes the Missouri Veterans' Commission responsible for the enforcement of certain new standards and for correcting complaints of noncompliance. The AGO is responsible for providing counsel to the Veteran's Commission. It is unclear how many claims will result from this proposal because of changes that include creating vicarious responsibility in veteran's home management for injuries to residents as a result in insufficient staffing under the proposed staffing levels.

Further, because the proposal eliminates the option of mandatory overtime in veteran's homes, there will be many occasions in which staffing will fall below mandated levels and the homes' Medicare reimbursement could be denied. AGO assumes that this may create some additional costs.

The second portion of the proposal makes the Department of Mental Health responsible for enforcement of certain new standards and for correcting complaints of noncompliance. The AGO is responsible for providing counsel to the DMH in abuse and neglect hearings. It is unclear how many claims will result from this proposal because of changes that include creating vicarious responsibility in DMH management for injuries to residents as a result in insufficient staffing under the proposed staffing levels.

AGO assumes it would need 1 Assistant Attorney General I (at \$31,500 annually) to handle collection and legal duties generated by proposal. The AGO assumes a total cost of \$55,780 in FY 2006, \$67,140 in FY 2007, and \$68,916 in FY 2008.

ASSUMPTION (continued)

Officials from the **Department of Mental Health (DMH)** state this bill would have a significant negative impact on their agency and the consumers from a fiscal and also from a services standpoint. The impact would encompass the inability to hire sufficient staff as dictated by the bill. Based on section 630.952, the minimum standards stated in this proposal would require the six Habilitation Centers to hire an additional 1,355 FTE's and Comprehensive and Psychiatric Services (CPS) facilities to hire an additional 1,396 FTE's. This would be necessary to maintain the stated ratios in this bill including direct care workers needed to cover clients that require coverage on a two-on-one or one-on-one basis; particularly considering line of site clients that shall be staffed on a one-on-one basis and forensic clients staff that shall not be assigned more than three level three or lower clients. This also takes into consideration section 630.954 that states the LPN's, RN's, DA III, etc. can't be counted in fulfilling this ratio.

Listed below is the estimated cost of direct care staff based on that staff ratio requirements outlined in section 630.952:

The fiscal impact on Mental Retardation and Developmental Disabilities (MRDD) Habilitation Centers is calculated based on an annual salary of \$20,556 for Developmental Assistants (DAs) that would be needed;

Bellefontaine	419 FTE's	\$8,612,964
Higginsville	207 FTE's	\$4,255,092
Marshall	267 FTE's	\$5,488,452
Nevada	188 FTE's	\$3,864,528
SEMORS	86 FTE's	\$1,767,816
SLDDTC	<u>188 FTE's</u>	<u>\$3,864,528</u>
	1,355 FTE's	\$27,853,380

The fiscal impact on CPS facilities is calculated based on four different job classifications of direct care workers needed across all of their facilities;

Psychiatric Aides I	820 FTE's	@ \$20,556/FTE	\$16,855,920
Psychiatric Aides II	82 FTE's	@ \$22,992/FTE	\$1,885,344
Security Aides I	384 FTE's	@ \$28,260/FTE	\$10,851,840
Security Aides II	<u>110 FTE's</u>	@ \$30,840/FTE	<u>\$3,392,400</u>
	1,396 FTE's		\$32,985,504

Section 630.954.3 as written would significantly limit community integration for the people served and significantly impact the Department's philosophy of integrating people in small

ASSUMPTION (continued)

groups for community activities (i.e. medical trips, shopping trips, recreational trips, etc.) As the bill reads it would be necessary to have 2 staff, even if only escorting 1, 2, 3, or 4 people into the community, which would not be economically feasible so such trips would be very limited. There would be additional fiscal impact as a result, but the cost is unknown.

Section 630.956.1 will have additional fiscal impact to the MRDD Habilitation Centers as one clerical person per facility will need to be added to handle the tracking and recording of the documentation outlined in this proposed legislation. At an annual salary of \$21,564 per Office Support Assistant (clerical) this would add an additional \$129,384 for salaries to the overall fiscal impact. In addition, there would be related expense and equipment for staff.

Also, the restrictions on overtime stated in section 630.956.2 could result in the hiring of more part time personnel to ensure adequate staffing levels which could significantly add to the fiscal impact of this proposed legislation.

Section 630.958 also presents a concern depending on the requirements in the correction plan because it may not be feasible to implement within 2 business days. If it requires hiring additional staff this would not be accomplished within that time frame and may even take a month to accomplish taking into consideration screenings, notices to former employees, and orientation training.

With the exclusion of specific personnel who are currently used to meet staffing needs, it will not be possible to meet staffing standards under this bill for many years into the future and certainly not without substantially increasing the current authorized pay levels for these direct care positions. Additionally, supervisory personnel for the new aides would be needed and the pay for those positions would also need to be increased. Such increases in current salaries have not been included in our fiscal calculations.

The facilities are not able to fill and retain employees in existing vacancies today because of the current low wages. Also, some facilities are located in rural settings where the applicant pool is very limited. Increasing the number of direct care staff needed would significantly increase the number needed for an applicant pool.

In summary, DMH assumes the need for an additional 2,757 FTE, and a total cost of \$74,753,090 to Unknown in FY 2006, \$91,898,550 to Unknown in FY 2007, and \$94,198,603 to Unknown in FY 2008.

ASSUMPTION (continued)

**Oversight** has, for fiscal note purposes only, changed the starting salary for the DMH positions to the first step for FY 06 and the second step for subsequent years to correspond to comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
<b>GENERAL REVENUE</b>			
<u>Costs - Veterans Commission (VET)</u>			
Personal Service (135 FTE)	(\$2,007,540)	(\$2,504,588)	(\$2,567,202)
Fringe Benefits	(\$856,417)	(\$1,068,457)	(\$1,095,168)
Expenses and Equipment	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs - VET</u>	<u>(\$2,863,957)</u>	<u>(\$3,573,045)</u>	<u>(\$3,662,371)</u>
<u>Costs - Attorney General's Office (AGO)</u>			
Personal Service (1 FTE)	(\$26,906)	(\$33,095)	(\$33,922)
Fringe Benefits	(\$11,478)	(\$14,118)	(\$14,471)
Expenses and Equipment	<u>(\$17,396)</u>	<u>(\$12,052)</u>	<u>(\$12,412)</u>
<u>Total Costs - AGO</u>	<u>(\$55,780)</u>	<u>(\$59,265)</u>	<u>(\$60,805)</u>
<u>Costs - Mental Health (DMH)</u>			
Personal Service (1,537 FTE)	(\$44,361,970)	(\$55,373,604)	(\$56,757,944)
Fringe Benefits	(\$18,924,816)	(\$23,622,379)	(\$24,212,939)
Expenses and Equipment	(\$459,953 to <u>Unknown</u> )	(\$517,991 to <u>Unknown</u> )	(\$533,531 to <u>Unknown</u> )
<u>Total Costs - DMH</u>	(\$63,746,739 to <u>Unknown</u> )	(\$79,513,974 to <u>Unknown</u> )	(\$81,504,414 to <u>Unknown</u> )
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b><u>(\$66,666,476 to Unknown)</u></b>	<b><u>(\$83,146,284 to Unknown)</u></b>	<b><u>(\$85,227,590 to Unknown)</u></b>

FISCAL IMPACT - Local Government

FY 2006  
(10 Mo.)

FY 2007

FY 2008

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal establishes the Safe Staffing and Quality Care Accountability Act for Veterans Homes and the Safe Staffing and Quality Care Accountability Act for Mental Health Facilities.

VETERANS HOMES

The proposal:

- (1) Requires all veterans homes to adopt minimum staffing ratios to ensure client and worker safety;
- (2) Requires veterans homes to employ the direct care staff necessary to provide the active treatment as prescribed in a client's habilitation plans or individualized treatment plan;
- (3) Requires the Missouri Veterans Commission to adopt and maintain minimum staffing ratios for all veterans homes;
- (4) Specifies limits for the assigned duties of direct care staff and requires that minimum staffing ratios apply to staff with direct care responsibilities;
- (5) Prohibits mandatory overtime from counting toward the minimum staffing ratios;
- (6) Prohibits the direct care staff of the commission from being transferred to a general acute care hospital in the event that a client of a veterans home is hospitalized in an acute care facility;
- (7) Requires veterans homes to document and submit to the commission on a monthly basis specified staffing information per nursing unit, per shift, and day of the week;
- (8) Specifies the use of mandatory overtime for direct care staff;

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DESCRIPTION (continued)

- (9) Requires complaints of the staffing ratios to be filed on a form which will be distributed to veterans homes and the commission. The commission is required to investigate all complaints;
- (10) Specifies corrective measures instituted by the commission in the event that violations are found in a veterans home;
- (11) Contains whistleblower protections for direct care staff and a cause of action provision for staff who sustain a personal injury resulting from violations of the bill;
- (12) Contains provisions pertaining to direct care transport staff and drivers; and
- (13) Exempts direct care staff from responsibility for adverse events resulting from violations of the bill. Management personnel of a veterans home will be held responsible for harm to clients resulting from insufficient staffing.

MENTAL HEALTH FACILITIES

The proposal:

- (1) Requires mental health facilities operated by the divisions of Comprehensive Psychiatric Services and Mental Retardation and Developmental Disabilities in the Department of Mental Health to adopt minimum staffing ratios to ensure client and worker safety. Facilities operated by the Division of Alcohol and Drug Abuse are excluded;
- (2) Requires mental health facilities to employ the direct care staff necessary to provide the active treatment as prescribed in a client's habilitation plan or individualized treatment plan;
- (3) Requires the department to adopt and maintain minimum staffing ratios for all department facilities;
- (4) Specifies limits for the assigned duties of direct care staff and requires that minimum staffing ratios apply to staff with direct care responsibilities;
- (5) Prohibits mandatory overtime from counting toward the minimum staffing ratios;
- (6) Prohibits the direct care staff of the department from being transferred to a general acute care hospital in the event that a client of a mental health facility is hospitalized in an acute care hospital;



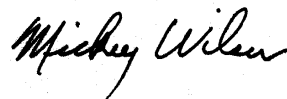
DESCRIPTION (continued)

- (7) Requires mental health facilities to document and submit to the department on a monthly basis specified staffing information per nursing unit, per shift, and day of the week;
- (8) Specifies the use of mandatory overtime for direct care staff;
- (9) Requires complaints of the staffing ratios to be filed on a form which will be distributed to facility supervisors and the department. The director of the department is required to investigate all complaints;
- (10) Specifies corrective measures instituted by the department in the event that violations are found in a mental health facility;
- (11) Contains whistleblower protections for direct care staff and a cause of action provision for staff who sustain a personal injury resulting from violations of the bill;
- (12) Contains provisions pertaining to direct care transport staff and drivers; and
- (13) Exempts direct care staff from responsibility for adverse events resulting from violations of the bill. Management personnel of a mental health facility will be held responsible for harm to clients resulting from insufficient staffing.

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 Mental Health  
Missouri Veterans Commission  
Department of Health  
Office of the Attorney General  
Office of the State Courts Administrator  
Office of Administration



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