

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4977-04
Bill No.: SCS for HCS for HB 1767
Subject: Disabilities; Elderly; Health Department
Type: Original
Date: May 3, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(Greater than \$100,000)	(Greater than \$100,000)	(Greater than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(GREATER THAN \$100,000)	(GREATER THAN \$100,000)	(GREATER THAN \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
State School Moneys Fund*	\$0	\$0	\$0
Nursing Facility Quality of Care Fund	\$182,180	\$226,473	\$225,720
Total Estimated Net Effect on <u>Other</u> State Funds			

*Unknown savings and losses would net to \$0.
 Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	Unknown	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator**, the **Department of Public Safety - Missouri State Highway Patrol**, the **Department of Mental Health**, the **Office of Administration**, and the **Department of Public Safety** assume this proposal would not fiscally impact their agencies.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** assume this proposal would not fiscally impact their agency. DMS assumes any money collected and deposited in the Nursing Facility Quality of Care Fund as stated in Section 192.2153.3 would be appropriated to the Department of Health and Senior Services.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to

ASSUMPTION (continued)

the schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools 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 **Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. SOS is provided with core funding to handle a certain amount of normal activity resulting from each years legislative session. The fiscal impact for Administrative Rules is less than \$1,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Health and Senior Services (DOH)** did not respond to our fiscal note request. In response to a similar proposal, DOH assumed Section 192.2150.15 provides that all providers who report incidents will classify them as a self-report and will count or track them separately form other hotline calls. DOH states currently, only self-reporting by licensed long-term care facilities is tracked and is maintained separately from other complaints. DOH states the Central Registry Unit's mainframe and software systems would need to be modified to enable separate tracking of self-reports by other providers.

In addition, DOH is required to screen the sexual offender registry on any potential patient or new referral and to notify providers if any potential patient or resident is included on the registry at the time the referral is made. DOH states checking the sexual offender registry on all new referrals and potential clients and notifying providers when the individual is on the registry at the time that the referral is made will require additional time or man hours; however, DOH will absorb the additional time using existing staff.

DOH states the cost for this modification would be less than \$100,000.

ASSUMPTION (continued)

Officials from the **State Public Defender** and the **Office of Prosecution Services** did not respond to our fiscal note request.

In response to a similar proposal, officials from the **Department of Corrections (DOC)** stated with enhanced penalties for existing crimes, probation denials and creation of new crimes, the potential exists for the fiscal impact of this proposal to exceed \$100,000 per annum for the DOC although the exact amount is unknown.

Officials from the **Office of Attorney General** assume any costs associated with this proposal could be absorbed with existing resources.

Interstate Compact for Juveniles – §§210.570, 210.580, 210.595, 210.600, and 210.610

Officials from the **Department of Social Services – Division of Youth Services (DYS)** assume they would incur costs for the compact dues. Under the old compact, the dues were \$400. Under the new compact, the state's dues will be \$17,000. Therefore, the fiscal impact would be the increase in dues of \$16,600 annually.

Oversight assumes the increase in the annual assessment is dependent on at least thirty five states enacting the compact into law. Therefore, Oversight has reflected the increase in the annual assessment as \$0 or \$16,600 per fiscal year.

New Construction Fees – §197.101

In response to a similar proposal, officials from the **Department of Health and Senior Services (DOH)** state there are currently 3 H&I positions (equivalent of 1.5 FTE) performing plan review functions (one engineer consultant and two project specialists). DOH assumes this 1.5 FTE will be switched from its current GR funding to fee funding through the Missouri Public Health Services Fund. In addition, DOH plans to hire a full-time engineer consultant in FY 2007 and an additional ½ time project specialist FTE. These two positions will also be funded through fee revenue deposited in the Missouri Public Health Services Fund. This staffing arrangement will help ensure the state has the ability to review plans in a timely fashion. DOH expects the number of plan reviews to continue to grow in upcoming years. Plan approval is not only required, but the plan approval/review process provides a valuable service to industry and promotes safety for consumers.

The proposed fee structure used to arrive at the generated revenue estimated plan reviews for

ASSUMPTION (continued)

approximately 250 health facilities in FY 2007. This number was based on the average number conducted in FY 2005 and thus far in FY 2006. The average fee charged is estimated at \$1,500 - \$1,600 per facility. DOH expects the number of plan reviews to continue to grow over the upcoming years. Actual fees to be charged would be established by rule.

DOH states when determining annual salary for the project specialist positions, current hourly salary for the 3 existing H&I positions was averaged and multiplied to arrive at a yearly salary.

One-time equipment purchases and expenses were included for the two new staff in the fiscal note. Other expenses were based on the 3 total FTE that would be funded out of fees. Additionally, the timing of when revenue generation would be sufficient to support the program may not occur until several months into the fiscal year because of rule development, etc. If this occurs, the general revenue savings estimated would decrease. Total general revenues savings for FY 2007 were based on nine months rather than 12 months.

Oversight assumes legislation, as written, allows for fees to be collected for architectural plan reviews only which would not require additional staff. Current DOH staff that are funded through General Revenue have been presented in the Missouri Public Health Services Fund.

Officials from the **State Public Defender and Office of Prosecution Services** did not respond to our fiscal note request.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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GENERAL REVENUE

<u>Savings</u> – Reduced appropriations to State School Moneys Fund	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
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<u>Savings</u> - Department of Health and Senior Services			
Personal Service (1.5 FTE)	\$80,058	\$98,471	\$100,931
Fringe benefits	\$35,274	\$43,386	\$44,471
Expense and equipment	<u>\$30,688</u>	<u>\$37,930</u>	<u>\$39,068</u>
<u>Total Savings</u> - Department of Health and Senior Services	\$146,020	\$179,787	\$184,470

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<u>Costs – Department of Social Services</u>			
Increased annual assessment §210.570, 210.580, 210.595, 210.600, and 210.610	\$0 or (\$16,600)	\$0 or (\$16,600)	\$0 or (\$16,600)
<u>Costs - Department of Health and Senior Services</u>			
Program costs	<u>(Less than \$100,000)</u>	<u>\$0</u>	<u>\$0</u>
<u>Costs - Department of Corrections</u>			
Program costs	<u>(Greater than \$100,000)</u>	<u>(Greater than \$100,000)</u>	<u>(Greater than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE*	<u>(GREATER THAN \$100,000)</u>	<u>(GREATER THAN \$100,000)</u>	<u>(GREATER THAN \$100,000)</u>
*Oversight assumes costs will exceed savings			
STATE SCHOOL MONEYS FUND			
<u>Savings – Reduced distributions to local school districts</u>			
	\$0	Unknown	Unknown
<u>Losses – Reduced appropriations from General Revenue Fund</u>			
	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
MISSOURI PUBLIC HEALTH SERVICES FUND			
<u>Income</u> - Department of Health and Senior Services			
Fees	\$328,200	\$406,260	\$410,190
<u>Costs</u> - Department of Health and Senior Services			
Personal Service (1.5 FTE)	(\$80,058)	(\$98,471)	(\$100,931)
Fringe benefits	(\$35,274)	(\$43,386)	(\$44,471)
Expense and equipment	(\$30,688)	(\$37,930)	(\$39,068)
Total Costs - Department of Health and Senior Services	(\$146,020)	(\$179,787)	(\$184,470)
ESTIMATED NET EFFECT ON MISSOURI PUBLIC HEALTH SERVICES FUND	<u>\$182,180</u>	<u>\$226,473</u>	<u>\$225,720</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – School Districts			
Income from fines	Unknown	Unknown	Unknown
<u>Losses</u> – School Districts			
Reduced distributions from State School Moneys Fund	\$0	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>Unknown</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Providers that are small businesses may be required to conduct supplemental background checks to ensure compliance with the additional disqualifying offenses in this proposal.

DESCRIPTION

SENIOR CITIZENS AND DISABLED PERSONS PROTECTION

Under this proposal, the necessary statutory changes are made due to the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services.

This proposal also modifies provisions relating to protections for senior citizens and the disabled receiving care for in-home services, adult day care, or personal care assistance.

This proposal modifies the provisions on the elder abuse and neglect awareness program to include information on financial exploitation of the elderly. SECTION 192.925

This proposal modifies the mandatory reporting provision affecting senior citizens and the disabled receiving in-home care and adult-day care services to include personal care services. Mandatory reporters must also now immediately report to the Department of Health and Senior Services if there is reasonable cause to believe that misappropriation of property or moneys of a patient, resident or consumer or the falsification of any documents verifying service delivery of in-home services or consumer-directed services has occurred. SECTION 192.2150.2.

Upon receipt of a report that indicates an imminent danger to the health, safety, or welfare of a patient, resident or consumer or substantial probability that death or serious physical injury will result, the department shall initiate an investigation within twenty-four hours. The department shall initiate all other investigations as soon as practicable. Notification of an investigation and whether such report was substantiated shall also be made to the patient, resident, or consumer's legal representative as soon as possible. SECTION 192.2150.6

When information gained from an investigation indicates a crime has occurred, the department shall report such information to appropriate law enforcement authorities. SECTION 192.2150.7

This proposal requires the department to keep the names of individuals submitting abuse and falsification of document reports confidential unless the complainant agrees to the disclosure of his or her name, the name of the complainant is lawfully subpoenaed, the release of a name is required by the Administrative Hearing Commission, or the release of a name is requested by the

DESCRIPTION (continued)

Department of Social Services for the purpose of licensure under Chapter 210, RSMo. SECTION 192.2150.9

This proposal protects patients and patients' family members from eviction, harassment, or retaliation due to the filing of a report of a violation or suspected violation of the laws or regulations of this proposal . SECTION 192.2150.13

Any potential patient or new referral of the department shall be screened to ascertain if they are included on the Missouri sexual offender registry and the provider shall be notified if a sexual offender was identified. SECTION 192.2150.15

Any person who fails to make the required abuse, neglect, misappropriation, or falsification of documents report shall be guilty of a class A misdemeanor. Any provider who knowingly conceals abuse or neglect that results in the death or serious injury of the patient shall be guilty of a class D felony. In addition, any provider who willfully and knowingly fails to report known abuse by an employee may be subject to a one thousand dollar per abuse violation administrative penalty by the Department of Health and Senior Services. SECTION 192.2153

This proposal provides that the department shall make available the employee disqualification list upon request to recognized schools of nursing or other health care professionals, or to consumer reporting agencies conducting background checks for specified entities. Such information shall not be disclosed to unauthorized entities. SECTION 192.2175.11

This proposal extends the time a person can be listed on the employee disqualification list by one year if he or she is employed in a prohibited position while on the list. SECTION 192.2175.14

This proposal modifies the provision on providers being guilty of a Class A misdemeanor for knowingly hiring or retaining employees who have been convicted of, found guilty of, or pled guilty to specified crimes to include violations of forgery and three or more instances of stealing. SECTIONS 192.2178.6

For any persons hired on or after August 28,2006, a provider shall not hire any person with a disqualifying criminal history unless such person has received a good cause waiver of the disqualifying criminal history. For any persons employed as of August 28, 2006, a provider shall not retain any person with a disqualifying criminal history unless such person has submitted a completed good cause waiver application prior to January 1, 2007. If the good cause waiver is denied, the provider shall not continue to retain such person after the provider is notified of the

DESCRIPTION (continued)

denial of the good cause waiver. SECTION 192.2178.6

Requires offenders who have pled guilty to or who are found guilty of a crime of violence against the elderly to be sentenced to a term of imprisonment of at least 30 days with no eligibility for probation or parole during the first 30 days. SECTION 565.320

This proposal prohibits suspending imposition of or execution of sentence or imposing any fine in lieu of a term of imprisonment when a person pleads guilty to or is found guilty of elder abuse in the first or second degree; sexual offense in certain long-term care facilities; and financial exploitation of the elderly. SECTIONS 565.180 AND 182; 565.200; AND 570.145

NEW CONSTRUCTION FEES

This proposal provides that the Department of Health and Senior Services shall promulgate rules to establish a schedule of fees to be paid by the applicant for the architectural plan review of new construction and alterations to health facilities under Chapters 197 and 198, RSMo. The Department shall have the authority to waive or reduce the plan review fees. All fees provided for in this proposal shall be collected by the Department and deposited in the Missouri Public Health Services Fund. SECTION 197.101

CHILD ABUSE AND NEGLECT INVESTIGATIONS

This proposal provides that the Missouri Children's Division may leave a child abuse or neglect investigation open if a child subject to the investigation dies during the course of the investigation. The investigation may remain open until such time as any separate investigation by the Division regarding the death is completed. SECTION 210.183

CRIMINAL BACKGROUND CHECKS FOR PLACEMENT OF CHILDREN

This proposal modifies provisions relating to criminal background checks when there has been an emergency placement of a child in a private home. Under current law, the criminal background check must be made within fifteen business days and there is an exception for conducting background checks for family members who are within the second degree of consanguinity of the child.

This proposal provides that the criminal background check be made within fifteen calendar days and removes the family member exception. These changes are consistent with Federal Bureau of Investigation regulations on emergency use of its system for background checks for the

DESCRIPTION (continued)

placement of children in out-of-home care. SECTION 210.482

INTERSTATE COMPACT ON JUVENILES

This proposal revises the Interstate Compact for Juveniles. The compact is an existing agreement between the states regarding the supervision and transfer of juvenile delinquents who have escaped from supervision to another state. Adoption of the revised compact makes Missouri a member of the Interstate Commission for Juveniles and requires the state to select a compact administrator to manage the state's transfer of those juveniles subject to the compact. The compact establishes the powers and duties of the interstate commission and specifies provisions regarding bylaws, corporate structure, rule-making authority, financing mechanism, a process for dispute resolution, and enforcement. The compact becomes effective August 28, 2006, or upon legislative enactment of the compact into law by no less than 35 states, whichever occurs later. SECTIONS 210.570, 210.580, 210.595, 210.600, 210.610

VOLUNTARY TERMINATION OF PARENTAL RIGHTS

This proposal specifies that whenever a child is placed in a foster home, a preference for placement with relatives will not apply if the parent has consented in writing to the termination of his or her parental rights and such consent specifies that the child be placed with a licensed child placing agency.

This proposal provides that whenever a child is taken into custody by a juvenile officer or law enforcement official and initially placed with the Children's Division, the requirement for a family support team meeting will not apply if the parent has consented in writing to the termination of his or her parental rights and such consent specifies that the child be placed with a licensed child placing agency.

In addition, this proposal provides that some juvenile court proceedings and cases for the termination of parental rights initiated by a juvenile officer or the Division shall have a closed hearing if the parent has consented in writing to the termination of his or her parental rights and such consent specifies that the child be placed with a licensed child placing agency.

This proposal also adds licensed child placing agencies to the list of interested parties who may petition the juvenile court to terminate parental rights. SECTIONS 210.565, 210.762, 211.319, 211.444

DESCRIPTION (continued)

CHILD ADOPTION

This proposal adds cases dealing with the placement of a child in adoption and foster care to the types of cases given priority for expedited proceedings. SECTIONS 453.010, 453.011

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 Social Services
Department of Elementary and Secondary Education
Secretary of State
Department of Corrections
Office of Attorney General
Office of State Courts Administrator
Department of Public Safety
Office of Administration
Department of Public Safety -
Missouri State Highway Patrol
Department of Mental Health

**NOT RESPONDING: Department of Health and Senior Services, State Public Defender
and Office of Prosecution Services**



Mickey Wilson, CPA
Director
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