

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0647-01  
Bill No.: HB 213  
Subject: Abortion; Health Care Professionals  
Type: Original  
Date: January 25, 2011

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Bill Summary: This legislation prohibits abortion for viable unborn children who are twenty weeks or more in gestational age.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Less than \$102,760)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Less than \$102,760)</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<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 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</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 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</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 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### ***Sections 188.015 & 188.030:***

Officials from the **Missouri State Treasurer, Office of the State Courts Administrator, Missouri Senate** and the **Office of Prosecution Services** each assume the proposal would have no fiscal impact on their respective agencies.

In response to a similar proposal from this year (SB65), officials from the **Missouri House of Representatives, Missouri State Highway Patrol** and the **Office of Administration-Budget and Planning** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of the State Public Defender (SPD)** state for purposes of the proposal, the SPD cannot assume existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of knowingly performing or inducing an abortion of an unborn child. A new class C felony.

While the number of new cases 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 in all cases.

**Oversight** assumes the SPD could absorb the additional caseload that may result from this proposal within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget request.

Officials from the **Department of Social Services (DSS)** states although this proposal creates the possibility for an increased number of extremely premature infants, who would require expensive medical care, the proposal does not address who would have the responsibility for the care and custody of such children. Therefore, no direct fiscal impact to the DSS can be established.

In response to a similar proposal from this year (SB65), Officials from the **Department of Health and Senior Services (DHSS)** states the proposal requires additional data elements to be added to the Report of Induced Termination of Pregnancy form. It is estimated that an ITSD programmer will be needed for 40 hours in order to modify the current database to allow entry of the additional items required by the proposed legislation. This will result in a one-time cost of \$2,760 (\$69/hour x 40 hours) in FY 2012.

ASSUMPTION (continued)

Expenses incurred for the revision of the form will be negligible and will therefore be absorbed through current funding. Printing costs will not be incurred as the form will be made available to providers on a secured website.

Officials from the **Department of Corrections (DOC)** state 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 the 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 direct offender cost either through incarceration (FY10 average of \$16.40 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the Department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Office of the Attorney General** assumes that costs of implementation could be absorbed with existing resources. However, due to the nature of the provision, AGO assumes this proposal has the potential to be the subject of state and federal litigation. Therefore, potential costs are unknown but AGO assumes will be less than \$100,000.

**Oversight** assumes, because the potential for litigation is speculative, that the AGO will not incur significant costs related to this proposal. If a fiscal impact were to result, the AGO may request additional funding through the appropriations process.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** assume the proposed legislation would require the Board of Registration for the Healing Arts to create a way for reporting the required information on abortions. This reporting method could be accomplished under existing appropriation. However, if the board is expected to review each report to determine if they are in agreement with the action taken, then it would require the board to obtain copies of medical records and have these records reviewed by a member of board staff and then reviewed by the full board. This would require additional FTE and expenses which would be requested through the appropriation process.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>GENERAL REVENUE FUND</b>			
<u>Costs - Department of Health and Senior Services</u>			
Program Costs	<u>(\$2,760)</u>	<u>\$0</u>	<u>\$0</u>
<u>Costs - Department of Corrections</u>			
Incarceration/probation costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Less than \$102,760)</u></b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<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

**Sections 188.015 & 188.030:**

The proposed legislation specifies that no abortion of a viable unborn child can be performed or induced except in the case of a medical emergency where the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, illness, or injury or when the continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman. Except in the case of a medical emergency, a physician must, prior to performing or inducing an abortion, determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards.

FISCAL DESCRIPTION (continued)

If a physician determines that the gestational age of the unborn child is 20 weeks or more, he or she must, prior to performing or inducing an abortion, determine if the unborn child is viable by performing medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and enter that information in the woman's medical record. If a physician determines the gestational age of the unborn child is 20 weeks or more and the unborn child is not viable and an abortion is performed or induced, the physician must report these findings and determinations and the reasons for the determinations to the health care facility in which the abortion is performed and to the State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration and must enter the determinations in the woman's medical records and in the individual abortion report submitted to the Department of Health and Senior Services.

A physician must certify in writing the medical threat posed to the life of the pregnant woman or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman before the physician can proceed with performing or inducing an abortion on a woman when it has been determined that the unborn child is viable.

Before a physician may perform or induce an abortion on a woman carrying an unborn child that has been determined to be viable, he or she must:

- (1) Certify in writing and obtain the agreement of a second physician who has knowledge of accepted obstetrical and neonatal practices and standards that the abortion is necessary to preserve the life of the pregnant woman or that continuation of the pregnancy would cause a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman. The second physician cannot have any legal or financial affiliation or relationship with the physician performing or inducing the abortion;
- (2) Use the available method or technique of abortion that is most likely to preserve the life or health of the unborn child; and
- (3) Have in attendance at the abortion a second physician who is responsible for taking control of and providing immediate medical care for a child born as a result of the abortion.

Any person who knowingly performs or induces an abortion of an unborn child in violation of these provisions will be guilty of a class C felony and subject to imprisonment for not less than one year and a fine of not less than \$10,000 or more than \$50,000. Any physician licensed in this

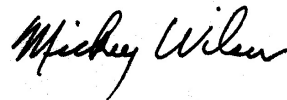
FISCAL DESCRIPTION (continued)

state who performs or induces an abortion of an unborn child in violation of these provisions will have his or her license suspended for three years. Any licensed hospital or ambulatory surgical center in which an abortion is performed or induced in violation of these provisions will be subject to the suspension or revocation of its license.

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 the Attorney General  
Office of Administration-Budget and Planning  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Corrections  
Department of Health and Senior Services  
Department of Social Services  
Missouri House of Representatives  
Missouri Senate  
Missouri State Treasurer  
Office of the State Courts Administrator  
Office of Prosecution Services  
Office of the State Public Defender  
Missouri State Highway Patrol



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Director  
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