

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0509-03
Bill No.: SCS for SB 2
Subject: Crimes and Punishment; Consumer Protection; Public Health; Health Care; Medical Insurance
Type: Original
Date: February 23, 2007

Bill Summary: The proposed legislation creates the crime of knowingly receiving, selling, or obtaining personal health information.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
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 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on FTE	0	0	0

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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Social Services, Department of Public Safety – Missouri State Highway Patrol, – Director’s Office, Missouri Consolidated Health Care Plan, and the Department of Insurance, Financial Institutions, and Professional Registration** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from representing the state in any criminal appeals arising from convictions obtained under this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services (OPS)** state any increase in the number of cases referred for criminal prosecution will have an additional fiscal impact on county prosecutors. However, OPS is not aware of any estimates of the number of additional criminal cases that would be referred to county prosecutors for charges because of this proposed legislation. Additionally, OPS is not otherwise able to establish a workable estimate of the number of additional cases that would be referred to county prosecutors for charges. It is therefore, not possible to determine if this proposal would have a significant direct fiscal impact on county prosecutors or OPS.

Based upon OPS’s response to a similar proposal from 2006 (SB 1041), **Oversight** assumes the county prosecutors could absorb the costs of the proposed legislation within existing resources.

Officials from the **Office of the State Public Defender (SPD)** assume this new crime will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the Office of the State Public Defender (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.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state this proposed legislation creates the crime of knowingly receiving, selling or obtaining personal health information. The penalty provision component of the bill resulting in potential fiscal impact for the DOC, is for up to a class C felony.

Currently, 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 operational cost either through incarceration (FY06 average of \$39.43 per inmate, per day or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY06 average of \$2.52 per offender, per day or an annual cost of \$920 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per 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.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (6 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Probation and/or incarceration	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2008 (6 Mo.)	 FY 2009	 FY 2010
	 <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

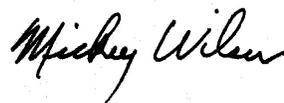
This proposal creates the crime of knowingly receiving, selling, or obtaining personal health information without the person's consent. It shall be class D felony if such crime is committed against at least one but not more than five persons. It shall be a class C felony if such crime is committed against more than five persons. There are exemptions for law enforcement officers or other governmental agencies performing their official duties. There are exemptions for health care providers obtaining, using, disclosing, or permitting access to any personal health information record as otherwise authorized or required by state or federal law.

The effective date for this proposal is January 1, 2008.

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 State Courts Administrator
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Social Services
Department of Public Safety
Missouri Consolidated Health Care Plan
Department of Insurance, Financial Institutions, and Professional Registration
Office of the State Public Defender
Department of Corrections
Office of Prosecution Services



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