

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0580-01
Bill No.: SB 3
Subject: Mental Health; Mental Health Dept.; Disabilities; Crimes and Punishment
Type: Original
Date: February 5, 2007

Bill Summary: Enacts provisions on mental health reform.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Could exceed \$200,000)	(Could exceed \$200,000)	(Could exceed \$200,000)
Total Estimated Net Effect on General Revenue Fund	(Could exceed \$200,000)	(Could exceed \$200,000)	(Could exceed \$200,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Mental Health Earnings	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 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 **Office of State Courts Administrator, Department of Public Safety (DPS) - Director's Office, DPS - Missouri State Highway Patrol, Department of Social Services (DOS) - Division of Youth Services, DOS - Children's Division, and Boone County Sheriff's Department** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Attorney General** assume any potential cost arising from this proposal can be absorbed with existing resources.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the 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 the SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs 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 **Office of Prosecution Services (OPS)** state that in the absence of estimates as to the number of increased cases that would be referred to the County Prosecutors for charges because of this proposed legislation, it is difficult to determine if this proposal would have a significant direct fiscal impact on county prosecutors of the OPS. It is assumed, in the absence of such estimates, that the most likely scenario is that the total number of assault and abuse cases would not increase, but that existing cases being referred for charges would be reclassified.

Officials from the **Office of the State Public Defender (SPD)** assume that existing staff could provide representation for those few cases arising where indigent persons were charged with vulnerable person abuse. However, passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing the indigent accused in the now more serious cases or in the new additional cases.

Officials from the **Springfield Police Department** estimate this proposal will cost their organization \$500 annually for law enforcement personnel to sit on the review panel.

Oversight assumes the Springfield Police Department can absorb this cost within existing resources.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the penalty provision component of the proposal resulting in fiscal impact for the DOC, is for up to a class A felony for defined vulnerable person abuse. However, the offender could already be charged with existing crimes. Passage of this law may make it easier to prosecute and/or convict. False reporting of vulnerable person abuse is a class D felony and this is a new crime.

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 (FY 06 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 (FY 06 average of \$2.52 per offender per day, or an annual cost of \$920 per offender). Supervision by the DOC through probation or incarceration would result in additional unknown costs to the DOC. 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.

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill and therefore, the number of additional inmate beds that may be required as a consequence of passage of this proposal. The estimated construction costs for one new medium to maximum security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

Officials from the **Department of Mental Health (DMH)** assume the proposal will result in unknown costs relating to establishment of a mental health fatality review panel to review the deaths of all adults in the care and custody of the department. However, if the responsibilities of the panel is determined to be a review of suspicious and unexplained deaths, the DMH assumes this would be a smaller number of reviews and the cost would be absorbed by the department. Language in Section 630.975.2 indicates the DMH shall promulgate rules for the certification of mental health death pathologists and shall develop protocols for such pathologists. A certified mental health pathologist shall be a board-certified forensic pathologist or a board-certified pathologist who, through special training or experience, is deemed qualified in the area of mental

ASSUMPTION (continued)

health facilities by the DMH. It is unknown what staff and other costs may be associated with the certification process for a mental health death pathologist, as well as verifying requirements are met, etc. Therefore, it is anticipated the requirements of this proposal will result in unknown costs less than \$100,000.

In addition, the DMH will provide Customer Information Management, Outcome and Reporting (CIMOR) training to the hot line staff at the Department of Health and Senior Services. They will have basic training on how to access screens to determine if the caller is a current or past client of the DMH. The DMH will absorb these training costs.

Officials from the **Department of Health and Senior Services (DOH)** assume that the calls of reports of abuse of a "vulnerable person" as defined in the legislation would be received by the Division of Senior and Disability Services (DSDS) Central Registry Unit (CRU) hotline in DOH and referred to the Department of Mental Health (DMH) for investigation by DMH staff as required in Section 630.1100.

The DSDS cannot estimate at this time the increase in the volume of phone calls that will result from the expanded utilization of the CRU hotline. A significant increase would result in additional staff needs. In FY 2006, 16.99 staff were assigned to the CRU hotline. Those 16.99 FTE received a total of 63,296 calls. 16,815 of those calls were reports of abuse, neglect, or financial exploitation (A/N/E) of non-institutionalized elderly or disabled persons. The ratio of A/N/E calls averaged 990 per FTE per year. Presently, the CRU is receiving a significant portion of mental health related calls. The DSDS would defer to DMH to determine an estimate of increased call volume due to this proposal, and will at this time assume that call volume increases will be absorbed by current staff. However, if the increase is substantial (i.e. greater than 990 calls/year), the DSDS would need to request funds and FTE to ensure proper handling of A/N/E calls to the CRU hotline. Also, the CRU hotline is presently operating at near capacity. If the volume of calls grows significantly, upgrades to the hotline equipment and voice-recording devices (all calls are recorded) will be required.

Additionally, while the DSDS assumes that this legislation would require that all investigations involving mental health issues will be conducted by the DMH, it is presently unknown how many investigations will be able to be referred to DMH. The DSDS, through Section 660.261, RSMo, has the ability to refer investigations of abuse and neglect to appropriate agencies. To date, the DMH has stated that a referral to their agency is only appropriate in cases where the referred individual is an active DMH client. The DSDS policy states that Division staff will investigate in all cases where a referral is not able to be made. Until clarification is given on the intent of SB 3, and how the DMH intends on promulgating rules related to the proposal, the DSDS is unable

ASSUMPTION (continued)

to estimate the effect on numbers of investigations. With the assumed increase in calls to the CRU, the DSDS does note that the number of referrals to the DMH for investigation would have to be significant to have a net effect on FTE needs by the Division.

Therefore, the DOH assumes this proposal could result in \$0 to unknown costs, depending on the number of hotline calls received and investigations performed by the DOH.

Oversight notes language in the proposal provides for an increase in civil penalties from \$100 to \$10,000 for each day a provider is in noncompliance with of the provisions of this proposal. Civil penalties are to be deposited in the Mental Health Earnings Fund. **Oversight** assumes unknown penalties may be collected as a result of this proposal and has ranged the penalties collected from \$0 to Unknown.

Officials from the **Jackson County Medical Examiner, St. Louis County Medical Examiner, Buchanan County Sheriff, Columbia Police Department, Greene County Sheriff, Jefferson City Police Department, St. Louis County Police Department, St. Louis County Sheriff,** and **St. Louis Metropolitan Police** did not respond to our request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE			
<u>Costs - Department of Corrections</u>			
Increase in incarceration and parol costs	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
<u>Costs - Department of Mental Health</u>			
Certification process and review panel	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
<u>Costs - Department of Health and Senior Services</u>			
Increase in hotline calls and investigations	<u>(\$0 to Unknown)</u>	<u>(\$0 to Unknown)</u>	<u>(\$0 to Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Could exceed \$200,000)</u>	<u>(Could exceed \$200,000)</u>	<u>(Could exceed \$200,000)</u>
MENTAL HEALTH EARNINGS FUND			
<u>Income - Department of Mental Health</u>			
Increase in civil penalties	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON MENTAL HEALTH EARNINGS FUND	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could impact small businesses involved in mental health care. In-home providers would be required to ensure their staff are trained on reporting requirements and potential penalties have increased for violations.

FISCAL DESCRIPTION

The proposal establishes a mental health fatality review panel to review all deaths of clients of the Department of Mental Health.

The director of the Department of Mental Health shall promulgate rules, guidelines and protocols for hospitals and physicians to use to help them identify suspicious deaths of clients in the care and custody of the department. The director shall also promulgate rules for the certification of mental health death pathologists.

This proposal defines "vulnerable person" as any person who because of developmental disability or mental illness is unable to protect his or her own interests or adequately perform or obtain services that are necessary to meet his or her own essential human needs. This proposal also creates the crime of "vulnerable person abuse" and provides for mandatory reporting of suspected vulnerable person abuse. Vulnerable person abuse in the first degree is a class A felony.

This proposal increases the penalty for a mandated reporter not reporting abuse and neglect from an infraction to a Class A misdemeanor. This proposal also imposes sanctions and penalties on providers that prevent or discourage the reporting of abuse and neglect.

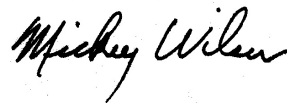
This proposal increases the penalty for community providers who do not correct problems cited by the Department of Mental Health in licensing inspections. The current fine is \$100 per day. This proposal increases the penalty for up to \$10,000 per day.

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 Attorney General
Office of State Courts Administrator
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Social Services -
 Division of Youth Services
 Children's Division
Department of Public Safety -
 Director's Office
 Missouri State Highway Patrol
Office of Prosecution Services
Office of Secretary of State
Office of State Public Defender
Boone County Sheriff
Springfield Police Department

NOT RESPONDING: Jackson County Medical Examiner, St. Louis County Medical Examiner, Buchanan County Sheriff, Columbia Police Department, Greene County Sheriff, Jefferson City Police Department, St. Louis County Police Department, St. Louis County Sheriff, and St. Louis Metropolitan Police



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Director
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