

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1511-06
Bill No.: HCS for SCS for SB 333
Subject: Health, Public; Health Care; Health Care Professionals; Health Department;
Public Assistance; Disabilities
Type: Original
Date: April 30, 2007

Bill Summary: This proposal revises provisions relating to the renamed Missouri Brain Injury Advisory Council.

This proposal modifies the Uniform Anatomical Gift Act.

This proposal creates the Chronic Kidney Disease Task Force.

This proposal modifies various provisions regarding protections for vulnerable adults and children.

This proposal requires hospitals to report certain incidents involving patient safety organization for review.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Greater than \$1,281,246)	(Greater than \$744,754)	(Greater than \$777,314)
Total Estimated Net Effect on General Revenue Fund	(Greater than \$1,281,246)	(Greater than \$744,754)	(Greater than \$777,314)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 17 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
State School Moneys Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*Unknown savings and losses would net to \$0.

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

*Income and costs of approximately \$397,144 in FY08, \$515,168 in FY09 & \$556,889 in FY10 would net to \$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	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Sections 58.720 - 660.010:

Officials from the **Missouri State Highway Patrol, Department of Insurance, Financial Institutions & Professional Registration, Office of Administration, Department of Labor & Industrial Relations, Office of the State Courts Administrator, Department of Public Safety, Department of Mental Health, Department of Social Services** and the **Office of the State Treasurer** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Revenue** assume the proposal would have a minimal impact on their agency. The proposal will require procedure changes, possible program changes and changes to the license application process.

Officials from the **Office of 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 act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, 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 office can sustain with the core budget. Therefore, the 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

ASSUMPTION (continued)

Officials from the **Office of the Attorney General** assume with regard to changes to coroners' duties (SB 496 - Section 58.720 et. al); the Chronic Kidney Disease Task Force (SB 677 - Section 192.632, et. al); and the Brain Injury Council (SCS/SB 333 - Section 192.745, et. al), that these provisions will create no fiscal impact. AGO assumes that with regard to provisions relating to financial exploitation of the elderly (SB 490, Section 192.925, et. al) and to reporting of adverse health events (SB 578, Section 197.551, et. al), costs from this proposal will be absorbed.

Sections 58.720, 58.775, 58.780, 58.785, 194.210, 194.215, 194.220, 194.225, 194.230, 194.235, 194.240, 194.245, 194.250, 194.255, 194.260, 194.263, 194.265, 194.270, 194.275, 194.280, 194.285, 194.290, 194.292, 194.293, 194.294, and 194.304:

In response to a similar proposal from this year (HB 723), officials from the **Department of Public Safety, Missouri Department of Conservation, University of Missouri, Boone County Sheriff's Department** and the **Springfield Police Department** each assume the proposal would have no fiscal impact on their respective agencies.

In response to a similar proposal from this year (HB 723), 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 offenses(s) outlined in this proposal. An increase in commitment 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 through either 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 per year).

DOC assumes the narrow scope of the crime will not encompass a large number of offenders. The low felony status of the crime enhances the possibility of plea-bargaining or the imposition of a probation sentence. The probability also exists that offenders would be charged with a similar but more serious offence of that sentences may run concurrent to one another.

Supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DHSS)** state the Department currently has an organ donor registry that is modifiable to accommodate the components of the proposed legislation although the DOH may contract for the establishment of a registry. The COA - Information Technology Services Division (ITSD) staff have provided cost estimates to upgrade the current registry to address the various provisions of the proposal.

The DOH sought input from other programs and states that maintain registries to aid in the preparation of this fiscal note. None of the registries and programs contain the same volume of information or have the ability to store and view multiple transactions, stored documents, and amendment capabilities 24/7.

For purposes of this fiscal note, the department is assuming the DOH will continue to maintain an Organ Donor central registry. This will require major revisions to the current registry to implement the various provisions contained in the proposal. The COA-ITSD has identified the following revisions that will need to be made to the registry and has provided cost estimates for this activity. Major revisions include: 1) Adding additional fields and functionality to store information, 2) Upgrading the current on-line enrollment system to provide direct access and update capabilities by citizens and insure that proper security measures are in place to protect their privacy, 3) Changing the reporting/viewing system used by the current organ procurement agency and other authorized agencies, 4) Incorporating an imaging solution in order to scan and/or store the necessary documents, i.e. copies of wills, revocation letters, copies of driver's license, etc., and 5) Upgrading storage capacity.

The COA-ITSD provided the following cost estimates to DOH:

- Programming consultant cost - \$162,000 (one-time cost)
- Imaging solutions consultant cost - \$100,000 (one-time cost)
- Hardware (additional server and related equipment) - \$24,000 (one-time cost)
- Hardware (imaging hardware and related equipment) - \$300,000 (one-time cost)
- Hardware maintenance - \$2,000 (annually)
- Application software licensing (\$12,000 one-time cost) and license renewal (\$1,000 annually)
- Imaging software licensing (\$80,000 one-time cost) and license renewal (\$11,000 annually)
- Personnel service cost - \$94,044 (1.7 FTE - year 1); \$47,703 (0.7 FTE - year 2); and \$31,488 (0.45 FTE - year 3).

ASSUMPTION (continued)

The DOH will need to provide training at Motor Vehicle contract fee offices on the new requirements in the bill relating to organ donation. The cost is estimated at \$7,300 for the first year, with declining costs each subsequent year. Training will occur in eight regional settings. Costs include room rental, printing of handouts, and expenses for two training staff. This estimate does not include mileage because DOH assumes a state car will be available for each regional training session.

Finally, an extensive educational effort will need to be conducted for at least the first three years to inform the public about all of the changes to the Uniform Anatomical Gift Act, first person consent law changes, revocation of gift(s), and first person consent registry implementation. A variety of outlets will be used. Costs are estimated at between \$300,000 and \$500,000 annually.

For the purposes of the fiscal note, the DOH has used an estimate of \$300,000 per year. After three years, the amount of advertising could be reduced significantly (approximately \$100,000 per year) to promote registry enrollment and public reports.

The DOH estimates FY 08 costs of \$1,034,144; FY 09 costs of \$379,647; and FY 10 costs of \$370,659.

Oversight assumes the information technology personal service portion of this request (0.2 FTE Planner II each year; 1.5 FTE CIT Specialist 1 for FY 08; 0.5 FTE CIT Specialist I for FY 09; and 0.25 FTE CIT Specialist I for FY 10) can be accomplished with existing resources. However, if priorities shift, additional FTE/overtime would be needed to implement the provisions of this proposal and can be requested through the appropriations process.

Section 192.632:

Officials from the **Department of Health and Senior Services (DHSS)** assume the task force will be in existence for only one year, since the proposal requires the task force to prepare its final recommendations in the form of a report to the General Assembly within 365 days of its first meeting. Although the proposal does not specify how often the task force is to meet, it is assumed that the task force will meet up to six times annually. The proposal does not indicate that DHSS is responsible for reimbursing task force member expenses. Therefore, no funding is requested for this purpose.

ASSUMPTION (continued)

Sections 192.925, 192.2000, 192.2001, 192.2003, 192.2006, 192.2009, 192.2012, 192.2015, 192.2025, 192.2030, 192.2033, 192.2035, 192.2040, 192.2100, 192.2103, 192.2106, 192.2109, 192.2112, 192.2115, 192.2118, 192.2121, 192.2124, 192.2127, 192.2130, 192.2150, 192.2153, 192.2175, 192.2178, 192.2181, 192.2184, 192.2187, 192.2200, 192.2203, 192.2206, 192.2209, 192.2212, 192.2215, 192.2218, 192.2221, 192.2224, 192.2227, 192.2250, 192.2253, 198.006, 198.090, 198.097, 198.532, 198.700, 198.703, 198.705, 198.708, 208.909, 210.900, 210.906, 559.100, 565.180, 565.182, 565.184, 565.188, 565.200, 565.320, 570.145, and 660.010:

In response to a similar proposal from this year (HCS for HB 769), officials from the **Department of Corrections (DOC)** state several penalty provisions are upgraded in felony status throughout this proposal, mandatory imprisonment is enacted and the crime criteria throughout is also enhanced.

Currently, the DOC cannot predict the number of new or extended commitments which may result from the creation/enhancement 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 incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of \$100,000 per year.

In response to a similar proposal from this year (HCS for HB 769), 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 Department of Revenue to distribute to 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

ASSUMPTION (continued)

(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.

DESE cannot know how much additional money might be collected and transferred to the state school moneys fund to be distributed to schools.

In response to a similar proposal from this year (HCS for HB 769), officials from the **Office of State Public Defender (SPD)** cannot assume existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crimes violating provisions regarding protections for vulnerable adults and children. This proposed legislation creates new crimes including making it a criminal offense to hire registered sex offenders in certain capacities. It also elevates elder abuse in the 3rd degree from Class A Misdemeanor to a Class D 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 its 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 Health and Senior Services (DHSS)** assume these sections expands the entities who are authorized to access the Employee Disqualification List (EDL), including consumer reporting agencies regulated by the Fair Credit Reporting Act that conducts employee background checks on behalf of entities. If the Department is required to exercise oversight of the consumer reporting agencies to make sure they are in compliance with the statute and only perform background checks on behalf of qualified entities as required in Section 192.2175, DHSS staff would have to process the requests manually by staff rather just giving users access to the system. It is anticipated that the number of consumer reporting agencies that would want to access the EDL information would be significant since these agencies charge their customers to access this information. If the volume of EDL checks increases significantly, the Department would need additional staff to handle the increased workload and be able to process the checks for the consumer reporting agencies. It is unknown how many staff would be necessary or how many additional background checks would be requested. For the purposes of this fiscal note the Department is showing a fiscal impact of \$0 to Unknown with an unknown amount of additional staff needed to implement the provisions in Section 192.2175.

ASSUMPTION (continued)

Nurse assessments for consumers directing their own care are necessary to ensure safe care plans guide the delivery of adequate long-term care to individuals choosing to receive care in their home. Currently, the state reimburses semi-annual nurse assessment visits for each client authorized to receive agency delivered care at home. The Consumer Directed Services (CDS) program (Section 208.930, RSMo), transferred from DESE in 2005 did not include a requirement for the medical assessment. Prior to transfer of the program, this component was a requirement of the Centers for Independent Living. The addition of the requirement for nurse visits for CDS consumers will ensure consistency between the two programs. Projections for FY08 show 9,698 consumers will be enrolled during the year, based upon observed historical increases of 4.95% annually. At \$39.49/visit, two visits per year would cost \$765,948/year (9,698 consumers X \$39.49/visit X 2 visits/year). Using the blended FMAP for FY08 of 62.22%, the Department estimates \$289,375 GR and \$476,573 in Federal match for the first year.

Oversight assumes, because the potential for oversight over consumer reporting agencies is speculative, that the DHSS will not incur significant costs related to Section 192.2175 of this proposal. If a fiscal impact were to result, the DHSS may request additional funding through the appropriations process.

Section 197.554.1:

Officials from the **Department of Health and Senior Services (DHSS)** assume this section requires the Department to define the form and content of information submitted and promulgate related rules. Section 197.563.1. requires the Department to promulgate regulations establishing criteria for defining cases in which reportable incidents have occurred in a hospital with a frequency or possible pattern of adverse outcomes that would necessitate departmental intervention. Promulgation of these rules will require research by the Department and input from the patient safety organization and affected facilities.

Section 197.557.1:

Officials from the **Department of Health and Senior Services (DHSS)** states the Department shall investigate each incident upon receiving notice. The extent of this investigation will be determined based on the findings and the proposed prevention plan prepared by the hospital. Some of these cases may be found to not require any further intervention. Other cases may require staff to go on-site. Many of the cases will likely be some of the most egregious and will require intense scrutiny by the Department. Additional nursing staff skilled at investigating and analyzing these events will be required. The state of Minnesota has enacted similar legislation. In the first two years of reporting in Minnesota, they received an average of 103 reports per year. The extent of any follow-up investigations on the Minnesota reports is unknown.

ASSUMPTION (continued)

Section 197.557.3:

Officials from the **Department of Health and Senior Services (DHSS)** assume this section requires the Department to, "periodically evaluate the performance of the patient safety organization regarding report submission processes and its reviews of reportable incident prevention plans and root cause analyses submitted by hospitals." The nursing staff mentioned previously would also need to review activities of the patient safety organization(s).

The assessment of a fee to cover the cost of investigations that is allowed by Section 197.557.2. (language says "may" charge a fee) would be a new activity for the Bureau of Health Services Regulation. Depending on the number of reports that need to be investigated and thus the number of fees assessed, there may be a need for additional staff to track the fee process from the initiation of a fee to the receipt of payment. Data would also need to be analyzed to determine the appropriate fee amount and the necessary rule(s) would have to be drafted and promulgated.

Due to the extent of the unknown variables, an accurate estimate of the fiscal impact is not known at this time, but it is believed to exceed \$100,000. At the point that the impact can be determined, the Division of Regulation and Licensure would request additional staffing through the appropriations process.

Officials from the **Office of Prosecution Services (OPS)** have not responded to Oversight's request for fiscal information.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
 GENERAL REVENUE FUND			
 <u>Savings</u> - Department of Elementary and Secondary Education			
Reduced appropriations to State School Moneys Fund	\$0	Unknown	Unknown
 <u>Income</u> - Department of Health and Senior Services*			
Investigation Fee	Greater than \$100,000	Greater than \$100,000	Greater than \$100,000
 <u>Costs</u> - Department of Health and Senior Services			
Uniform Anatomical Gift Act	(\$940,100)	(\$331,944)	(\$339,171)
Nurse Visits	(\$241,146)	(\$312,810)	(\$338,143)
Investigations and Reviews*	<u>(Greater than \$100,000)</u>	<u>(Greater than \$100,000)</u>	<u>(Greater than \$100,000)</u>
<u>Total Costs</u> - DOH	<u>(Greater than \$1,181,246)</u>	<u>(Greater than \$644,754)</u>	<u>(Greater than \$677,314)</u>
 <u>Costs</u> - Department of Corrections			
Incarceration/Probation 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 FUND	 <u>(Greater than \$1,281,246)</u>	 <u>(Greater than \$744,754)</u>	 <u>(Greater than \$777,314)</u>

*Oversight assumes incomes and costs would net to \$0.

STATE SCHOOL MONEYS FUND

<u>Savings</u> - Reduced distributions to local school districts	\$0	Unknown	Unknown
--	-----	---------	---------

<u>Losses</u> - Reduced appropriations from General Revenue Fund	\$0	(Unknown)	(Unknown)
--	-----	-----------	-----------

ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
---	-------------------	-------------------	-------------------

FEDERAL FUNDS

<u>Income</u> - Department of Health and Senior Services			
Federal Assistance	\$397,144	\$515,168	\$556,889

<u>Costs</u> Department of Health and Senior Services			
Nurse Visits	(\$397,144)	(\$515,168)	(\$556,889)

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
--	-------------------	-------------------	-------------------

<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
---	---------------------	---------	---------

POLITICAL SUBDIVISIONS

<u>Revenues</u> - School Districts			
Income from fines	Unknown	Unknown	Unknown

<u>Losses</u> - School Districts	\$0	(Unknown)	(Unknown)
----------------------------------	-----	-----------	-----------

<u>Costs</u> - Medical Examiners	(Unknown)	(Unknown)	(Unknown)
----------------------------------	-----------	-----------	-----------

ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
---	-------------------------	-------------------------	-------------------------

FISCAL IMPACT - Small Business

The proposal may impact small business funeral homes or directors and other organizations that accept whole-body or willed-body donations.

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

If the state's unemployment insurance program fails to be certified, Missouri employers would lose over \$900 million annually in Federal Unemployment Tax Act (FUTA) credits.

FISCAL DESCRIPTION

Sections 58.720, 58.775, 58.780, 58.785, 194.210, 194.215, 194.220, 194.225, 194.230, 194.235, 194.240, 194.245, 194.250, 194.255, 194.260, 194.263, 194.265, 194.270, 194.275, 194.280, 194.285, 194.290, 194.292, 194.293, 194.294, and 194.304: This proposal changes the laws regarding the Uniform Anatomical Gift Act, promotes uniformity of the law among states, and defines "anatomical gift" as a donation of all or part of a human body after death.

The proposal specifies which documents are acceptable to make an anatomical gift, specifies how an anatomical gift can be revoked, allows an individual to refuse to make an anatomical gift, specifies who is authorized to make an anatomical gift of a deceased individual's body, specifies to whom an anatomical gift can be made, allows emergency personnel and hospital staff to search a deceased or near death individual for documentation as a donor, specifies that upon referral of a potential donor, a procurement organization will search an organ donor registry and other applicable records to determine if the individual has made an anatomical gift, specifies that a person who knowingly purchases or sells a body part for transplantation will be guilty of a felony and subject to a fine of not greater than \$50,000, imprisonment not exceeding five years, or both, specifies that the Department of Health and Senior Services can establish a donor registry, and requires the Department of Revenue to cooperate with a state-established registry.

Section 192.632: This legislation creates the "Chronic Kidney Disease Task Force." The list of 17 members are specified in the legislation. The duties of the task force include developing a plan to educate the public and health care professionals about the advantages and methods of early screening, diagnosis, and treatment of chronic kidney disease. Also, the task force shall submit a report of its findings and recommendations to the General Assembly within a year of its first meeting.

FISCAL DESCRIPTION (continued)

Sections 192.925, 192.2000, 192.2001, 192.2003, 192.2006, 192.2009, 192.2012, 192.2015, 192.2025, 192.2030, 192.2033, 192.2035, 192.2040, 192.2100, 192.2103, 192.2106, 192.2109, 192.2112, 192.2115, 192.2118, 192.2121, 192.2124, 192.2127, 192.2130, 192.2150, 192.2153, 192.2175, 192.2178, 192.2181, 192.2184, 192.2187, 192.2200, 192.2203, 192.2206, 192.2209, 192.2212, 192.2215, 192.2218, 192.2221, 192.2224, 192.2227, 192.2250, 192.2253, 198.006, 198.090, 198.097, 198.532, 198.700, 198.703, 198.705, 198.708, 208.909, 210.900, 210.906, 559.100, 565.180, 565.182, 565.184, 565.188, 565.200, 565.320, 570.145, and 660.010: This legislation provides protections for vulnerable adults and children and transfers the Division of Aging from the Department of Social Services to the Department of Health and Senior Services. In its main provisions, the legislation adds financial exploitation of the elderly to the public education and awareness program administered by the Department of Health and Senior Services.

The legislation transfers the powers, duties, and functions of the Board of Nursing Home Administrators to the Department. The legislation defines "consumer," "in-home services," "misappropriation," "personal care attendant," "principal," "patient," "provider," and "resident".

The legislation requires any health service provider or employee and allows any other person having reasonable cause to believe that a patient or consumer has been a victim of misappropriation of a patient's money to report the information to the Department.

The legislation requires the Department, upon receipt of an imminent danger report, to initiate an investigation promptly, but without a 24-hour time requirement. If an investigation indicates a crime has occurred, the appropriate law enforcement agency must be notified. The Department must notify the resident's legal representative of the report and investigation status when it involves a resident who has been appointed a guardian and/or conservator or is incapacitated and resides at a state-licensed facility. The Department may also notify the resident's family members or guardians.

The legislation requires the Department to keep the names of individuals submitting abuse and misappropriation 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 Department of Social Services for the purpose of licensure under Chapter 210, RSMo.

The legislation protects a patient and the patient's family members from eviction, harassment, or retaliation due to the filing of a report of a violation or suspected violation of the provisions of the legislation.

FISCAL DESCRIPTION (continued)

The legislation requires patients and consumers whose services are funded by the Missouri Medicaid Program to be checked against the sexual offender registry and requires the Department of Health and Senior Services to notify providers at the time of referral if a patient or consumer is listed.

The legislation makes any person failing to file a required report and any person or provider who misuses or diverts the consumer's use of any personal property or money or falsifies service delivery documents guilty of a class A misdemeanor. Any provider who knowingly conceals abuse or neglect that results in the death or serious injury of a patient will be guilty of a class D felony.

The legislation authorizes the Department to assess a \$1,000 fine on any provider who willfully and knowingly fails to report known abuse by an employee.

The legislation makes any person or entity that unlawfully discloses information from the employee disqualification list guilty of an infraction.

The legislation 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.

The legislation requires approved good cause waivers for employees to gain or retain employment from a provider as of August 28, 2008.

The legislation restates the Department's rule-making authority to make any rule effective only if it complies with and is subject to the provisions of Chapter 536.

The legislation prohibits state and federal financial assistance to be used for the services of a personal care attendant who is listed on the employee disqualification list, is registered as a sexual offender, or has a disqualifying criminal history not excused by a good cause waiver.

The legislation prohibits courts from suspending the imposition or execution of a sentence, imposing a fine instead of a term of imprisonment for first and second degree elder abuse cases and sexual misconduct cases, and sentencing persons guilty of a crime of violence against an elderly person to less than 30 consecutive days or imposing a fine instead of imprisonment.

FISCAL DESCRIPTION (continued)

Sections 197.551, 197.554, 197.557, 197.560, 197.563, 197.566, 197.569, 197.572, 197.575, 197.578, 197.581, 197.584, and 197.587: The procedure for hospitals reporting such events to the Department of Health and Senior Services and to a patient safety organization are prescribed in the legislation. The requirements for a patient safety organization are also prescribed in the legislation. The patient-identifying data shall be redacted from information provided to the Department or patient safety organization. The initial report of the event shall be reported to the patient safety organization and include a description of immediate actions taken by the hospital to minimize the risk of harm to patients and prevent reoccurrence. Within 20 days after the event occurred, the hospital shall submit to the patient safety organization a root cause analysis and a prevention plan, which shall be forwarded to the Department.

The Department shall investigate the reportable incident and based on its findings, determine whether the hospital's response and proposed prevention plan is sufficient to reduce the risk of future occurrences of that type. The Department shall also periodically evaluate the performance of the patient safety organization regarding report submission processes and its reviews of prevention plans. The legislation also prescribes the procedure for the Department when taking action on insufficient prevention plans.

If a reportable incident is disclosed to the Department and patient safety organization and the prevention plan and root cause analysis is submitted and approved by the Department, the incident shall not be deemed grounds for a finding of a licensure deficiency. The Department shall promulgate rules establishing criteria for defining cases in which reportable incidents have occurred in a hospital with a frequency or possible pattern of adverse outcomes as to necessitate departmental intervention.

The patient safety organization shall in collaboration with the Department publish an annual report to the public on reportable incidents. The report shall show the number and rate per patient encounter by region and by category of reportable incident and may identify reportable incidents by type of facility.

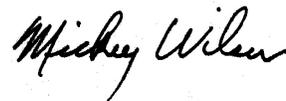
This legislation provides for certain legal protections of patient safety organization documents. The proceedings and records of the organization shall not be subject to discovery or introduction into evidence in any civil action against a provider. However, information otherwise available from original sources shall not be immune from discovery or use in any civil action if they were presented during a patient safety organization meeting. Patient safety work product shall be privileged and confidential and shall not be disclosed for any purpose.

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 Administration
Department of Health and Senior Services
Office of the Secretary of State
Office of the State Treasurer
Department of Insurance, Financial Institutions & Professional Registration
Missouri State Highway Patrol
Department of Labor & Industrial Relations
Office of the State Courts Administrator
Department of Public Safety
Department of Revenue
Department of Mental Health
Missouri Department of Conservation
University of Missouri
Boone County Sheriff's Department
Springfield Police Department
Department of Social Services
Department of Corrections
Department of Elementary and Secondary Education
Office of the State Public Defender
Office of the Attorney General

Not Responding: Office of Prosecution Services



Mickey Wilson, CPA
Director
April 30, 2007