

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2051-01
Bill No.: SB 490
Subject: Medicaid; Disabilities; Social Services Department; Health Department; Health Care; Health, Public; Elderly; Children and Minors
Type: Original
Date: February 26, 2007

Bill Summary: This proposal modifies provisions relating to citizens most at risk for exploitation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
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 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.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 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	Unknown	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

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

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

Officials from the **Department of Mental Health** assume no additional Department resources should be needed to effectuate this legislation.

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.

Officials from the **Department of Social Services (DSS)** states this proposal is updating various statutory sections to accommodate the transfer of the Division of Aging from DSS to the Department of Health and Senior Services. The proposal also offers certain protections for the elderly. There is no direct fiscal impact to the DSS.

ASSUMPTION (continued)

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.

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 (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.

ASSUMPTION (continued)

For the purpose of this proposed legislation, 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 relating to citizens most at risk for exploitation. These new misdemeanors include the following: failing to make a report of abuse, neglect, or misappropriation of property or money to the department within 24 hours after such an act has occurred or been discovered; abusing or neglecting an in-home services, home health patient or consumer; concealing any act of abuse or neglect that results in death or serious physical injury; allowing an employee to have contact with a patient or in-home services client prior to requesting a background screening from the family care safety registry; and purposely filing a false report of elder abuse or neglect or financial exploitation of the elderly.

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.

If the **Department of Health and Senior Services (DHSS)** is expected 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, DHSS staff would have to process the requests manually. It is anticipated that the number of consumer reporting agencies which would want to access EDL information would be significant since they charge their customers to access this information for them. 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 in one to two business days. It is unknown how many staff would be necessary or how many additional background checks would be requested.

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

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Savings</u>			
Reduced appropriations to State School Moneys Fund	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Costs - Department of Corrections</u>			
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 \$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</u> - Reduced distributions to local school districts	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Losses</u> - Reduced appropriations from General Revenue Fund	<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 - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
POLITICAL SUBDIVISIONS			
<u>Revenues - School Districts</u>			
Income from fines	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Losses - School Districts</u>			
Reduced distributions from State School Moneys Fund	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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.

FISCAL DESCRIPTION

This legislation modifies various provisions regarding the protection of senior citizens, the disabled and children. Under this legislation, 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 legislation 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 legislation modifies the provisions on the elder abuse and neglect awareness program to include information on financial exploitation of the elderly. SECTION 192.925

This legislation modifies the mandatory reporting and abuse and neglect provisions affecting senior citizens and the disabled receiving in-home care and adult-day care services to include personal care services. A new definition of "in-home services client" includes children in the Healthy Children and Youth (HCY) Program and "principal" of a facility to include a provider, officer, director, owner, partner or other person with primary management or supervisory responsibilities. SECTION 192.2150.1

FISCAL DESCRIPTION (continued)

Mandatory reporters must also now immediately report to the Department of Health and Senior Services if there is reasonable cause to believe that abuse or neglect occurred as a result of the provider's delivery of or failure to deliver services, that misappropriation of property or moneys of a patient, resident, in-home services client, 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.

If a report is made by the patient's, in-home services client's or resident's physician, the Department shall provide information regarding the progress of the investigation to the physician upon request. SECTION 192.2150.4

Upon receipt of a report that indicates an imminent danger to the health, safety, or welfare of a patient, resident, in-home services client or consumer or a substantial probability that death or serious physical injury will result, the Department shall make a prompt and thorough investigation. 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's, resident's, in-home services client's 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 legislation 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 Department of Health and Senior Services finds that disclosure is necessary to prevent further abuse, neglect or misappropriations of property or moneys, 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. SECTION 192.2150.9

This legislation 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 legislation. 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

FISCAL DESCRIPTION (continued)

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

Any person who puts to his or her own use or the use of the provider or otherwise diverts from the in-home services client's use of any property or funds is guilty of a class A misdemeanor. Any provider, principal in the operation of a provider or employee of a provider who knowingly conceals any act of abuse or neglect that results in death or serious physical injury is guilty of a Class D felony. SECTION 192.2153.2 and 3

This legislation provides that the Department shall make available the employee disqualification list upon request to recognized schools of nursing or other health care professionals. Such information shall not be disclosed to unauthorized entities. SECTION 192.2175.11

This 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. SECTION 192.2175.14

This legislation disqualifies individuals who are on the sexual offender registry from employment in long-term care facilities, hospitals, home health agencies, adult day care, in-home services providers, and consumer directed services. Also, this legislation 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, 2007, 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, 2007, 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, 2008. If the good cause waiver is denied, the provider shall not continue to retain such person after the provider is notified of the denial of the good cause waiver. This legislation adds licensed hospices to the list of employers who are required to obtain a background screening from the Family Care Safety Registry. SECTION 192.2178.6, 8, and 9

FISCAL DESCRIPTION (continued)

This legislation modifies the definition of "child care provider" to include in-home services providers currently under contract with the Department of Health and Senior Services.
SECTION 210.933

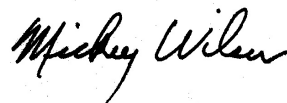
Requires offenders who have pled guilty to or who are found guilty of a crime of violence against the elderly to be sentenced to a term of imprisonment of at least 30 days with no eligibility for probation or parole during the first 30 days. SECTION 565.320

This legislation 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

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
Office of the State Courts Administrator
Department of Elementary and Secondary Education
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Department of Public Safety
Missouri State Highway Patrol
Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender
Office of the State Treasurer



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