

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4634-02
Bill No.: SB 1081
Subject: Mental Health; Mental Health Dept.; Disabilities; Taxation and Revenue -
 General
Type: Original
Date: February 19, 2008

Bill Summary: Modifies provisions regarding quality assurance and safety in the Division of Mental Retardation and Developmental Disabilities Community Programs.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(\$5,226,132 to Unknown)	(\$6,342,670 to Unknown)	(\$6,532,949 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$5,226,132 to Unknown)	(\$6,342,670 to Unknown)	(\$6,532,949 to Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Criminal Records	\$315,675	\$145,350	\$145,350
Total Estimated Net Effect on <u>Other</u> State Funds	\$315,675	\$145,350	\$145,350

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Federal	0*	0*	0*
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0*	\$0*	\$0*

* Income and expenses exceed \$10 million annually and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	3	3	3
Total Estimated Net Effect on FTE	3	3	3

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 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Revenue, Department of Public Safety (DPS) - Director's Office, and Office of State Treasurer** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Administration (COA) - Administrative Hearing Commission** do not anticipate this legislation will significantly alter its caseload. However, if other similar proposals also pass, there are more cases, or the cases are more complex, there could be fiscal impact.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal to the SOS for administrative rules is less than \$2,500. The SOS does not expect additional funding would be required to meet these costs. However, the SOS 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 its 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.

Officials from the **Department of Social Services (DOS) - MO HealthNet Division (MHD)** state this legislation provides for an assessment program for intermediate care facilities for the mentally retarded (ICF-MR) similar to the nursing facility assessment and the hospital federal reimbursement allowance. The ICF-MRs are assessed and will either pay the assessment by check or an offset against payments from the state.

The MHD assumes that the assessment program for ICF-MRs will be approved by the Center for Medicare and Medicaid Services. There will be no fiscal impact to the MHD since the MHD will only handle the collections and offsets.

Officials from the **COA - Division of Budget and Planning (BAP)** state the proposed legislation should not result in additional costs or savings to the BAP.

The bill expands who is required to register with the family care safety registry, which will increase deposits to the Criminal Records System Funds. This will increase total state revenue.

SB 1081 requires that beginning July 1, 2008, each Intermediate Care Facility for the Mentally Retarded (ICF-MR) in this state must pay an ICF-MR provider reimbursement based on a formula set forth in promulgated rules. This tax will count toward the 18(e) limit.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DOH)** provide the following assumptions regarding the proposed legislation:

Sections 210.900 – 210.927 (part of the Family Care Safety Act):

These sections of the proposal require individuals working in any private mental health facility or group home, as defined in section 633.005, RSMo, and any person employed by a mental health provider or group home to register with the Family Care Safety Registry as of 01/01/2009.

The Department of Mental Health (DMH) provided the estimate of 27,000 mental health workers. The Family Care Safety Registry estimates that one Health Program Representative (HPR) and 0.5 Office Support Assistant (Keyboarding) (OSA) are required to process 12,000 registrations each year. Therefore, two HPR FTE and one OSA FTE are needed to process the additional applications as a result of this legislation ($27,000 \times 0.80$ annual turnover rate = 21,600. $21,600/12,000 = 1.8$. $1.8 \times 1.5 = 2.7$ FTEs rounded up to equal 3 FTE's).

Postage costs to notify the mental health workers of their background screening results is estimated at 36 cents per mailing, or $21,600 \times .36 = \$7,776$ annually.

DHSS assumes the Department of Public Safety (DPS) will include the estimates for increased revenue into their fund.

Division of Senior and Disability Services (DSDS)

Sections 210.903, 210.906, and 210.909:

The DSDS assumes the number of contracted provider complaints may increase due to the additional requirement to register as a “mental health worker” on the Family Care Safety Registry (FCSR), and violations of this requirement. However, at this time, the increase will most likely be able to be absorbed by current staff.

Section 630.165:

The DSDS assumes that the calls of reports of abuse or neglect in private group homes and health facilities would be received by the Central Registry Unit (CRU) hotline in the DSDS and referred to the Department of Mental Health (DMH) for investigation by DMH staff as required in section 630.167.

ASSUMPTION (continued)

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 07, 17.97 staff were assigned to the CRU hotline. Those 17.97 FTE received a total of 71,811 calls, reports, or referrals. 19,918 (27.7%) 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 reports averaged 1,108 (19,918 calls/17.97 FTE) per FTE per year. Presently, the CRU is receiving a significant portion of mental health related calls. The DSDS would defer to the 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 1,108 calls/year), the DSDS would need to request funds and FTE to ensure proper handling of A/N/E reports to the CRU hotline.

Oversight assumes that current staff will absorb additional hotline calls and the DOH-DSDS will not need an unknown increase in staff. However, if this were to change, the DOH could request additional funds through the appropriations process.

Section 630.167:

Additionally, while the DSDS assumes that this legislation would require that all investigations involving DMH “clients” as defined in 630.005(4) would be conducted by the DMH, it is presently unknown how many investigations will be referred to the DMH. The DSDS, through Section 660.261, RSMo, has the ability to refer investigations of abuse and neglect to appropriate agencies.

The DSDS assumes that the revision of the definition of “client” will add to the number of investigations that will be referred to the DMH for investigation or action. The DSDS policy states that Division staff will investigate in all cases where a referral is not able to be made. 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 increase significantly to have a net decrease effect on HCS investigative FTE needs by the Division.

Officials from the **Department of Mental Health (DMH)** state Section 644.401 adds a provider tax for Intermediate Care Facilities for the Mentally Retarded (ICF-MR). It is estimated this tax will generate approximately \$2.7 million annually in federal earnings. The funds generated by this tax will be earmarked for the Regional Center Quality Assurance system and to strengthen the Mentally Retarded Developmentally Disabled (MRDD) safety net for individuals supported by the Division.

ASSUMPTION (continued)

Section 210.903 adds Mental Health workers to those required to be registered on the Family Care Safety Register located at Department of Health and Senior Services (DOH). The cost to pay for registration with the Family Care Safety Register is \$9 each. The one-time cost for registering the current 9,000 employees would be \$81,000. Mental health workers have a high turnover rate. The DMH has approximately 1,750 new hires each year and the annual cost would be \$15,750 (1,750 new hires X \$9). Due to the January 1, 2009 effective date of the legislation, the cost of new hires the first year would be half of the annual cost, or \$7,875.

Section 633.300 requires staff at private facilities to have the same training as those employed by the state facilities. The topics of training required for private providers are similar to state facilities, but different mixes and levels are required depending on the type of setting of the facility. Some of the basic trainings include CPR, First Aide, HIPPA, Fire Safety, Abuse and Neglect Reporting, and Med Administration. Because the training needs are not known at this time, the DMH is unable to determine the costs associated with the needs of private providers at this time.

Section 633.300 also requires that private provider staff be compensated at an equivalent rate to state facility employees. The DMH included in the FY02 provider hourly salary increase decision item for private group home staff an hourly compensation of \$6.50. Using this as the baseline and including an additional \$1 hour increase for the community direct care staff increase in FY02 plus a 2.5% COLA in FY06 and a 4% COLA (assumes 4% of the 7% general COLA supported salaries) in FY07, the DMH estimates that the current average cost per hour for private direct care workers is \$8.00. The state Developmental Assistant I was paid an average of \$9.73 in 2007, or a difference of \$1.73. This \$1.73 increase would reflect the State and Federal share.

There are over 9,000 community staff and an extremely high turn-over rate for these staff. It is estimated that 4,500 would be at or close to \$8.00 per hour. The division would need approximately \$16,192,800 ($\$1.73 \times 4,500 \times 2080$) to increase salaries to \$9.73 per hour. The Medicaid Federal cost in FY 09 would be \$10,201,464 (63%) and the General Revenue FY 09 cost would be \$5,991,336 (37%). These costs do not include employee payroll taxes or any other fringe benefits, which we estimate at 25%. This would create a pool of resources to implement \$9.73 per hour on a provider by provided basis. Guidelines defining the tasks associated with each position would have to be established in order to equitably compare private providers to state facility staff. At this time the DMH is unable to determine these costs.

Therefore, the fiscal impact of this legislation to the DMH is unknown but greater than \$5,081,655 GR and \$8,756,257 Federal for the first year.

ASSUMPTION (continued)

Officials from the **DPS - Missouri State Highway Patrol (MHP)** state the Criminal Records and Identification Division of the MHP estimates that the proposed legislation would require background checks on all Mental Health Workers, both those at the DMH/state-owned facilities and private mental health facilities.

The DOH provided to the MHP that it estimates that 27,000 mental health workers (includes 9,000 DMH workers) would need background checks initially. Additional revenue to the Criminal Records Fund is estimated to be \$243,000 (27,000 workers X \$9) for FY 09. The DOH assumes an 80% turnover rate in non-state mental health workers, or 14,400 background checks per year (18,000 x 0.80 annual turnover rate = 14,400). In addition, the DMH assumed an annual turnover rate of 1,750 employees per year. Therefore, the MHP estimates an additional 16,150 background checks (14,400 + 1,750 = 16,150) would be performed annually, or \$145,350 in revenue to the Criminal Records Fund. Since the legislation would not take effect until January 1, 2009, the MHP assumes half of the turnover rate for the first year (FY 09); revenue is estimated to be \$72,675. Therefore, total FY 09 revenue is estimated to be \$315,675 (\$243,000 initial background checks + \$72,675 turnover background checks.)

This proposal will increase total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Costs - DOH</u>			
Personal service (3.0 FTE to Unknown)	(\$74,026)	(\$91,496)	(\$94,241)
Fringe benefits	(\$33,504)	(\$41,411)	(\$42,653)
Equipment and expense	<u>(\$36,947)</u>	<u>(\$22,464)</u>	<u>(\$23,138)</u>
Total <u>Costs</u> - DOH	<u>(\$144,477)</u>	<u>(\$155,371)</u>	<u>(\$160,032)</u>
FTE Change - DOH	3.0 FTE	3.0 FTE	3.0 FTE
<u>Costs - DMH</u>			
Family Care Safety Registrations	(\$88,875)	(\$16,223)	(\$16,709)
Direct care staff increases	<u>(\$4,992,780 to Unknown)</u>	<u>(\$6,171,076 to Unknown)</u>	<u>(\$6,356,208 to Unknown)</u>
Total <u>Costs</u> - DMH	<u>(\$5,081,655 to Unknown)</u>	<u>(\$6,187,299 to Unknown)</u>	<u>(\$6,372,917 to Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>(\$5,226,132 to Unknown)</u>	<u>(\$6,342,670 to Unknown)</u>	<u>(\$6,532,949 to Unknown)</u>
Estimated Net FTE Change for General Revenue Fund	3.0 FTE	3.0 FTE	3.0 FTE
CRIMINAL RECORDS FUND			
<u>Income - MHP-Criminal Records and Identification Division</u>			
Mental health employee background check	<u>\$315,675</u>	<u>\$145,350</u>	<u>\$145,350</u>
ESTIMATED NET EFFECT ON CRIMINAL RECORDS FUND			
	<u>\$315,675</u>	<u>\$145,350</u>	<u>\$145,350</u>

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
FEDERAL FUNDS			
<u>Income - DMH</u>			
Community direct care staff increase reimbursement	\$8,756,257	\$10,822,733	\$11,147,415
ICF-MR Federal earnings	<u>\$2,700,000</u>	<u>\$0</u>	<u>\$0</u>
Total <u>Income</u> - DMH	<u>\$11,456,257</u>	<u>\$10,822,733</u>	<u>\$11,147,415</u>
<u>Costs - DMH</u>			
Increase in community direct care costs	(\$8,756,257)	(\$10,822,733)	(\$11,147,415)
Increase in ICF-MR costs	<u>(\$2,700,000)</u>	<u>0</u>	<u>0</u>
Total <u>Costs</u> - DMH	<u>(\$11,456,257)</u>	<u>(\$10,822,733)</u>	<u>(\$11,147,415)</u>

**ESTIMATED NET EFFECT ON
 FEDERAL FUNDS** \$0* \$0* \$0*
 * Income and expenses exceed \$10 million annually and net to \$0.

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (6 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposal would impact small business mental health providers. At a minimum, there would be background checks that would have to be performed. In addition, an increase in wages would likely result in additional costs to small business mental health providers.

FISCAL DESCRIPTION

This proposal amends the Family Care Safety Registry to include protections for the developmentally disabled and requires the registry to contain information on mental health workers. This proposal also adds direct care staff from the Division of Mental Retardation and Developmental Disabilities (MRDD) community programs to the list of health care and mental health providers who are required to report suspected cases abuse of a patient, resident, or client of a mental health facility. The Department of Mental Health shall conduct such abuse and neglect investigations.

FISCAL DESCRIPTION (continued)

All group homes and mental retardation facilities shall be subject to all applicable federal and state laws, regulations and monitoring. All MRDD community providers shall be subject to the same training requirements established for state mental health workers with comparable positions in public group homes and mental health facilities. In addition, any employee, including supervisory personnel, of a group home or mental retardation facility who has been placed on the department's disqualification registry due to a substantiated finding of abuse or neglect shall be terminated. The facilities or homes are also required to report staff turnover to the Department of Mental Health and the General Assembly. The Department of Mental Health shall not transfer any person to any group home or mental retardation facility that has received a notice of noncompliance, until there is an approved plan of correction.

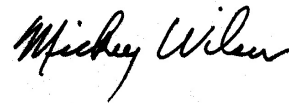
This proposal also provides that beginning July 1, 2008, each Intermediate Care Facilities-Mentally Retarded Facilities (ICF-MR) in this state must pay, in addition to all other fees or taxes required by law, a ICF-MR provider reimbursement based on a formula set forth in rules promulgated by the Department of Social Services. The provisions relating to the provider reimbursement allowance shall expire on June, 30, 2009.

There is an emergency clause for the ICF-MR provider reimbursement provision.

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 -
 Administrative Hearing Commission
 Division of Budget and Planning
Office of State Courts Administrator
Department of Mental Health
Department of Health and Senior Services
Department of Revenue
Department of Social Services
Department of Public Safety -
 Director's Office
 Missouri State Highway Patrol
Office of Secretary of State
Office of State Treasurer



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