

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4656-09
Bill No.: Perfected SS for SCS for SBs 1021 & 870
Subject: Children and Minors; Health Care; Health Care Professionals; Hospitals; Boards, Commissions, Committees, Councils
Type: Original
Date: May 8, 2008

Bill Summary: Changes the laws regarding midwives and the practice of midwifery.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Board of Direct-Entry Midwives	\$0	\$189,716	(\$89,029)
PR Fees	(\$81,280)	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	(\$81,280)	\$189,716	(\$89,029)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Board of Direct Entry Midwives	1.5	1.5	1.5
Total Estimated Net Effect on FTE	1.5	1.5	1.5

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 Health and Senior Services, Department of Revenue, Office of the Governor, Missouri Senate, and Office of State Treasurer** assume the proposal would have no fiscal impact on their organizations.

In response to similar legislation, officials from the **Department of Social Services** stated the proposal will have no fiscal impact on the MO HealthNet Division. Current policy does not allow payment from MO HealthNet benefits to direct-entry midwives. Only certified nurse midwives who hold current registered nurse licenses are eligible for reimbursement.

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

In response to similar legislation, officials from the **Office of Secretary of State (SOS)** stated the fiscal impact for this proposal for Administrative Rules 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.

In response to similar legislation, officials from the **Department of Corrections (DOC)** stated 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 offense of that sentences may run concurrent to one another.

ASSUMPTION (continued)

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.

In response to similar legislation, officials at the **Office of State Public Defender (SPD)** stated the SPD cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of practicing midwifery without a license.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the SPD system to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding 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 SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Office of Attorney General (AGO)** state the proposal creates a new licensing board within the Division of Professional Registration. The Board has the power to license, place limitations on licensees and discipline licenses. The AGO assumes it would need 0.5 FTE Assistant Attorney General (AAG) I to assist the Board in the rule-making process, licensing, and appearances before the Administrative Hearing Commission. The AGO estimates costs to the General Revenue Fund of \$29,004 for FY 09; \$30,890 for FY 10; and \$31,816 for FY 11.

Oversight assumes the AGO would not hire 0.5 FTE AAG I and would absorb the additional duties with existing resources. However, if other proposals pass that require the AGO to assist the Division of Professional Registration boards, the AGO may request additional funding through the appropriations process.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state that based on information received from a representative of the group seeking legislation, the division estimates that approximately 50 individuals in the state of Missouri will be required to be licensed.

The projected revenue reflects the fees for all categories of licensure. An initial licensing fee of \$5,700 per licensee will begin being collected in FY 10; renewal fees are estimated to be \$5,675 per licensee. A 3% growth rate is estimated. The DIFP estimates initial licensure fees of \$285,000 (50 licensees X \$5,700) in FY 10 and \$11,400 (2 licensees X \$5,700) in FY 11. Renewal fees will not be collected until FY 12.

ASSUMPTION (continued)

It is assumed that all fees collected would be deposited into a fund for the Board of Professional Midwives and that all expenses would be paid out of that fund. It is assumed no revenue will be generated by the Board of Direct-Entry Midwives in FY 09. Therefore, expenses incurred by the board in FY 09 will be paid from a lending board within the division, pursuant to 620.106, RSMo. It is estimated that payback of any outstanding loans would be made in FY 12.

The proposed legislation will create the need for 1.5 FTE as follows: 0.5 FTE Principle Assistant to serve as the senior executive officer (\$47,676 annual full-time salary); 0.5 FTE Licensure Technician II (\$24,636 annual full-time salary) will be needed to provide technical support, process licensure applications and respond to inquiries relating to licensure laws, rules and regulations; and 0.5 FTE Investigator II (\$34,908 annual full-time salary) to conduct investigations and inspections, serve notices and gather information as required by the board.

Expenses and equipment costs are based on information from boards with a like-sized licensee base. Printing, Postage, and Board Meeting costs are based on costs incurred for boards of similar size.

It is assumed that the board will meet one time per year for two days. If board members elect not to receive per diem or other fees established by rule, there could be a reduction in the estimated licensure and renewal fees.

Costs are calculated for services provided to the division by the Attorney General's Office (AGO) and the Administrative Hearing Commission (AHC). It is anticipated AGO costs will be incurred beginning in FY 09 and AHC costs will be incurred beginning in FY 10.

Oversight notes the proposal has an emergency clause. However, based on discussion with DIFP personnel, revenues and costs have not been adjusted because before midwifery licensing can begin, the Governor has to appoint the board members. The DIFP assumes the board members would not be appointed in time to significantly affect the costs of this proposal.

Officials from the **Office of Prosecution Services (OPS)** state "because the provisions of this proposal creates new criminal laws, the OPS assumes it would have a direct fiscal impact on county prosecutors from an increase in the number of cases referred for prosecution. However, the OPS is not able to establish an estimate of the additional criminal cases that would be referred to the County Prosecutors for charges. It is not believed that a significant number of additional case referrals would result from this proposal. It is also assumed this proposal would not have a significant direct fiscal impact on the OPS."

This proposal will result in an increase in total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2009	FY 2010	FY 2011
BOARD OF DIRECT-ENTRY MIDWIVES FUND			
<u>Transfer-In - DIFP</u>			
Transfer from PR Fees Fund	\$81,280	\$0	\$0
<u>Income - DIFP</u>			
Licensure Fees/Renewals	\$0	\$285,000	\$11,400
<u>Costs - DIFP</u>			
Personal service costs (1.5 FTE)	(\$45,792)	(\$56,324)	(\$57,732)
Fringe benefits	(\$20,249)	(\$24,906)	(\$25,529)
Equipment and expense	(\$14,939)	(\$13,424)	(\$16,506)
AGO and AHC expense	<u>(\$300)</u>	<u>(\$630)</u>	<u>(\$662)</u>
Total <u>Costs</u> - DIFP	<u>(\$81,280)</u>	<u>(\$95,284)</u>	<u>(\$100,429)</u>
FTE Change - DIFP	1.5 FTE	1.5 FTE	1.5 FTE
ESTIMATED NET EFFECT ON BOARD OF DIRECT-ENTRY MIDWIVES FUND			
	<u>\$0</u>	<u>\$189,716</u>	<u>(\$89,029)</u>
Estimated Net FTE Change for Board of Direct-Entry Midwives Fund	1.5 FTE	1.5 FTE	1.5 FTE
PR FEES FUND			
<u>Transfer-Out - DIFP</u>			
Transfer to Board of Direct-Entry Midwives Fund	<u>(\$81,280)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON PR FEES FUND			
	<u>(\$81,280)</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2009	FY 2010	FY 2011

\$0

\$0

\$0

FISCAL IMPACT - Small Business

The proposal may impact small business obstetric practitioners if women decide to use a direct-entry midwife instead of a physician.

FISCAL DESCRIPTION

This proposal creates a "Board of Direct-Entry Midwives" within the Division of Professional Registration. The board shall have the power to issue licenses and to suspend, revoke or deny the license of a direct-entry midwife. The board shall develop practice guidelines regarding the practice of midwifery established by the National Association of Certified Professional Midwives, including the development of collaborative relationships with other healthcare practitioners who can provide care outside the scope of midwifery when necessary.

No licensed professional midwife shall be permitted to prescribe drugs, perform vacuum deliveries, medical inductions or cesarean sections, use forceps during the delivery of an infant, or perform an abortion. A licensed professional midwife shall not administer prescription drugs, except for neonatal use of prophylactic ophthalmic medications as required under current law, vitamin K and oxygen, maternal use of Rho (D) immune globin, oxygen, local anesthetic and oxytocin and methylergonovine maleate for postpartum antihemorrhage.

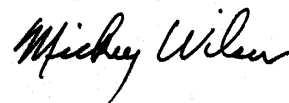
Any hospital, physician, nurse, emergency services personnel, or any other licensed health care professional who renders emergency care, treatment, or assistance to any person or persons, when the need of such care, treatment, or assistance arises from care provided by a licensed professional midwife, shall not be held liable for any civil damages except for acts of gross negligence or those occasioned by willful and wanton acts by such person in rendering such emergency care, treatment, or assistance.

It shall be unlawful for any person to engage in the practice of professional midwifery unless such person is licensed as a professional midwife under the provisions of this act. Also, any person who violates the provisions of this act is guilty of a Class A misdemeanor.

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 Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Insurance, Financial Institutions and Professional Registration
Department of Corrections
Department of Health and Senior Services
Department of Revenue
Department of Social Services
Office of the Governor
Office of Prosecution Services
Missouri Senate
Office of Secretary of State
Office of State Public Defender
Office of State Treasurer



Mickey Wilson, CPA
Director
May 8, 2008