

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0448-10  
Bill No.: HCS for SS for SCS for SB 89  
Subject: Department of Health and Senior Services; Elderly; Nursing and Boarding Homes  
Type: Original  
Date: April 23, 2009

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**Bill Summary:** This legislation modifies provisions on the regulation of inspectors or surveyors long-term care facilities.

This legislation requires smoke alarms to be installed in each resident room and any room designated for sleeping in a long-term care facility until such time as the required sprinkler system is installed.

This legislation requires all resident of long-term care facilities to have background checks for the purpose of identifying those residents who are sexual offenders.

This legislation changes the laws regarding protections for vulnerable adults and children and transfers the Division of Aging to the Department of Health and Senior Services.

This legislation establishes a dispute resolution process for long-term care facilities cited with a deficiency by the Department of Health and Senior Services.

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 22 pages.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
General Revenue	(\$1,465,017)	(\$820,052)	(\$842,713)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$1,465,017)</b>	<b>(\$820,052)</b>	<b>(\$842,713)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
State School Moneys Fund*	\$0	\$0	\$0
Criminal Records Fund	\$3,234,000	\$501,600	\$501,600
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$3,234,000</b>	<b>\$501,600</b>	<b>\$501,600</b>

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
General Revenue	12 FTE	12 FTE	12 FTE
<b>Total Estimated Net Effect on FTE</b>	12 FTE	12 FTE	12 FTE

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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Local Government</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

*Sections 192.925, 192.2000, 192.2001, 192.2003, 192.2006, 192.2009, 192.2012, 192.2015, 192.2020, 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, 198.532, 198.700, 198.703, 198.705, 198.708, 208.909, 210.900, 210.906, 565.180, 565.182, 565.184, 565.188, 565.200, 570.223, 660.010:*

Officials from the **Department of Labor and Industrial Relations, Office of Prosecution Services, Office of the State Courts Administrator** and the **Department of Public Safety** each assume the proposal would have no fiscal impact on their respective agencies.

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

In response to a similar proposal from this year (HB 926), 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 Mental Health (DMH)** state none of the provisions contained in this legislation appear to create any obligation or requirement for the DMH that would result in a fiscal impact.

ASSUMPTION (continued)

In response to a similar proposal from this year (HB 926), officials from the **Office of Administration-Administrative Hearing Commission (AHC)** anticipates that this legislation will not significantly alter the AHC caseload. However, if other similar bills also pass, there will be fiscal impact. If there are more cases, or more complex cases, there could be fiscal impact.

Officials from the **Department of Social Services** state there is some clarifying language in Section 192.2181.5 regarding authorized nurse visits for in-home clients. The legislation does not change the twice annual frequency of such visits. Therefore, this provision has no impact on MO HealthNet benefits. None of the other provisions has a direct fiscal impact to the Department. Much of the legislation is “clean-up” language for the transfer of the Division of Aging from DSS to DHSS, which has already been implemented. The rest of the legislation mainly affects Department of Health and Senior Services and law enforcement.

In response to a similar proposal from this year (HB 926), officials from the **Office of the State Public Defender (SPD)** state for purposes of the proposal, the 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 or faced with enhance penalties for the following:

- False reporting of elder abuse which would become a Class A misdemeanor
- Abuse or neglect of an in home services client, patient, or resident or consumer which would become an A misdemeanor
- Concealing abuse would become a Class D Felony
- A false report of financial exploitation of the elderly would become a D felony
- Sexual contact with a resident of a nursing home would become a Class A misdemeanor, subsequent offences would become D felonies.

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 of the SPD 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.

In response to a similar proposal from this year (HB 926), 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 offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

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 direct offender cost through either incarceration (FY08 average of \$15.64 per offender per day or an annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender per year).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the Department. Eighteen (18) 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.

In response to a similar proposal from this year (HB 926), 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.

**Oversight** notes that local school districts would see an increase in fine revenue as a result of this proposal. As stated by DESE, this fine revenue would be a deduction the next year for some of the school districts. Oversight assumes an unknown amount of revenue would be realized each year by school districts and a corresponding decrease in school funding from the state the following year. Oversight assumes the fine revenue will fluctuate from year to year, therefore, the net fiscal impact to local school districts from FY 2009 on could be Unknown to (Unknown).

In response to a similar proposal from this year (HB 926), officials from the **Missouri State Highway Patrol** state according to the Department of Health and Senior Services, the estimated number of persons that are currently employed and will be subject to this new legislation is approximately 228,000. Approximately 100,000 of these 228,000 employees have had background checks performed pursuant to other statutory requirements and will not be part of the initial check process stipulated in this proposed legislation (228,000 - 100,000 = 128,000).

ASSUMPTION (continued)

Additionally, it is assumed there will be a 10% turnover rate for these healthcare workers; therefore, 22,800 additional background checks will be needed annually. Each background check costs \$20.00 for the state fingerprint check and an additional \$19.25 for the nationwide federal check. Of which, the state pays the FBI \$17.25.

(228,000 employees x .10 = 22,800 employees.)  
(22,800 employees x \$39.25 = \$ 894,900)

Estimated Revenue for FY10:

128,000 healthcare workers x \$39.25 (state/federal background check)	\$ 5,024,000
19,000 (22,800/12 x 10 months) healthcare workers x \$39.25	\$ 745,750
FY10 Total	\$ 5,769,750

Estimated Expense for FY10:

128,000 healthcare workers x \$17.25 (federal background check charge)	(\$ 2,208,000)
19,000 (22,800/12 x 10 months) healthcare workers x \$17.25	(\$ 327,750)
FY10 Expense Total	(\$ 2,535,750)

Estimated Revenue for FY11 & FY12:

22,800 employees x \$39.25	\$ 894,900
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Estimated Expense for FY11 & FY12:

22,800 employees x 17.25	(\$ 393,300)
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In response to a similar proposal from this year (HB 926), officials from the **Department of Health and Senior Services (DHSS)** assume the changes in Section 192.2178 will require hospitals, long-term care facilities, and adult day care providers to utilize the Family Care Safety Registry (FCSR) in order to obtain required background screening information, to include the Department of Mental Health Employee Disqualification Registry.

The Missouri Hospital Association (MHA) estimates that there are 140,593 individuals employed in hospitals. Because these employees are not currently required to register with the FCSR, most of these individuals will be required to be registered and be screened initially by the FCSR. MHA estimated that no more than 10 percent of hospitals currently use the FCSR. Based on this, DHSS assumes the remaining 90 percent or 126,534 (140,593 X 90 percent) must be registered and screened initially.

ASSUMPTION (continued)

In addition, MHA's 2006 Workforce Survey information indicates an annual turnover rate of 7.6 percent. This is rounded to eight percent for computation purposes. Based on this turnover rate and assuming steady total hospital employment of 140,593; 11,247 (140,593 X 8 percent) will be required to be screened annually.

DHSS estimates that there are 87,329 long-term care and adult day care employees providing services. Although most, if not all, of these individuals are already registered, DHSS estimates that few of these providers (employers) currently use the FCSR to obtain background screenings. Based on an estimated 80 percent turnover rate, 69,863 (87,329 X 80 percent) individuals employed by long-term care and adult day care providers will be required to be screened annually.

DHSS estimates that one Health Program Representative (HPR) II and 0.5 Office Support Assistant (Keyboarding) (OSA) are required to process 12,000 registrations and background screenings each year.

First Year (Fiscal Year 2010):

Registration with Family Care Safety Registry (FCSR) - Employee initiated per Section 210.909, RSMo.:

Hospital staff - -DHSS estimates there will be 126,534 (140,593 X 90 percent) hospital employees that will register the first year.  $126,534 \text{ registrations} / 12,000 = 10.54$ , rounded to 10. 10 HPR II FTE (10 X 1 FTE) and five OSA FTE (10 X 0.5 FTE), or 30 temporary employees.

Screenings with FCSR - Employer initiated:

Hospital staff - -DHSS estimates there will be 126,534 employer requested screenings.  
Long-Term Care (LTC) staff - - DHSS estimates: 87,329 employer requested screenings.  
Therefore, DHSS estimates a total of 213,863 employer requested screenings during the first year.

$213,863 \text{ screenings} / 12,000 = 17.82$ , rounded to 17. 17 HPR II FTE (17 X 1 FTE) and 8.5 OSA FTE (17 X 0.5 FTE).

Postage costs to notify the employees and employers of the FCSR is estimated as follows:

126,534 registration letters to the hospital employees  
0 registrations for LTC employees (LTC employees are currently registered with FCSR)  
126,534 screenings letters to hospital employers  
126,534 screening letters to hospital employees

SEC:LR:OD (12/02)

ASSUMPTION (continued)

87,329 LTC screening letters to the employers  
87,329 LTC screening letters to the employees  
554,260 total letters for registration and screenings for the first year  
 $554,260 \times \$0.325 = \$180,135$

Second and Subsequent Years:

Registration with Family Care Safety Registry (FCSR) - Employee initiated per:

Hospital staff - -DHSS estimates there will be 11,247 (140,593 x 8 percent turnover) new hospital employees that will register each year after the initial year. 11,247 registrations/ 12,000 = 0.937254, rounded to one. One HPR II FTE and 0.5 OSA FTE (1 X 0.5 FTE).

Screenings with FCSR - Employer initiated:

Hospital staff - -DHSS estimates there will be 11,247 employer requested screenings.  
Long-Term Care (LTC) staff- - DHSS estimates: 69,863 employer requested screenings.  
Therefore, DHSS estimates a total of 81,110 employer requested screenings during for every year after the initial year.

81,110 additional screenings / 12,000 = 6.759, rounded to seven. Seven HPR II FTE (7 X 1 FTE) and 3.5 OSA FTE (7 X 0.5 FTE)

Postage costs to notify the employees and employers of the FCSR is estimated as follows:

11,247 registration letters to the hospital employees  
0 registrations for LTC employees (LTC employees are currently registered with FCSR)  
11,247 screenings letters to hospital employers  
11,247 screening letters to hospital employees  
81,110 LTC screening letters to the employers  
81,110 LTC screening letters to the employees  
195,961 total letters for registration and screenings for the every year after the initial year.  
 $195,961 \times \$0.325 = \$63,687.33$

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

**Oversight** assumes the DHSS will only require 8 Health Program Rep. II FTE's in FY10, FY11 and FY12 and 4 Office Support Assistant FTE's in FY10, FY11 and FY12. Oversight assumes the DHSS will require the help of temporary staff in the first year of registration.

ASSUMPTION (continued)

**Sections 198.074 & 198.075:**

Officials from the **Office of Administration-Administrative Hearing Commission** and the **Department of Social Services** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Mental Health (DMH)** state the DMH has no facilities covered under Section 198; therefore, anticipates no fiscal impact.

In response to a previous version of this proposal, officials from the **Department of Public Safety** assume the proposal would have no fiscal impact on their agency.

Officials from the **Department of Public Safety - Division of Fire Safety** states due to legislation passed in 2007, the Division of Fire Safety is currently required to oversee the inspection of fire protection sprinkler systems, fire alarm systems, and smoke sections in residential care facilities, assisted living facilities, intermediate care facilities, and skilled nursing facilities. There are approximately 1200 of such facilities in the State of Missouri which fall under this law. This legislation proposes that the Department of Health would assume inspections in the skilled nursing and immediate care facilities (approximately 600) should the Division be unable to provide that service.

In Missouri's border states of Arkansas, Iowa, Illinois and Kansas, as well as many other states around the nation, the fire safety inspection responsibility in these facilities falls under purview of the State Fire Marshal.

As mentioned above, there are approximately 1200 long-term care facilities in the State of Missouri impacted by this legislation. This proposal allows the Department of Health to provide inspections for approximately 600 facilities if the Division is unable.

In response to a previous version of this proposal, officials from the **Department of Health and Senior Services (DHSS)** state the DHSS fiscal note response to SS SCS HCS HB 952 and 674 (FN 2306-11T) passed during the 2007 legislative session indicated an Unknown, greater than \$100,000 impact for the General Revenue Fund and an Unknown impact for the Fire Safety Standard Loan Fund. The Unknown impact on the Fire Safety Standard Loan Fund indicated last year, is still appropriate. With the potential for additional loan applications to process, loan tracking, monitoring of repayments, etc., there would also be an increase in costs to General

ASSUMPTION (continued)

Revenue for administrative purposes. This impact would also continue to be Unknown, greater than \$100,000 as reported in the 2008 fiscal note. The amount however, would be at an increased unknown amount.

**Oversight** assumes this legislation clarifies the language passed in SS SCS HCS HB 952 and 674. Oversight assumes any fiscal impact was included in FN 2306-11T and therefore, assumes DHSS would not be fiscally impacted by this change in law. If a fiscal impact were to result, the DHSS may request additional funding through the appropriations process.

Sections 198.187:

In response to a similar proposal from this year (HB 1012), officials from the **County of Cass, Boone County Sheriff's Department** and the **Springfield Police Department** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Corrections** and the **Office of Prosecution Services** each assume the proposal would have no fiscal impact on their respective agencies.

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

In response to a similar proposal from this year (HB 1012), 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)

In response to a similar proposal from this year (HB 1012), officials from the **St. Joseph Police Department** state the legislation would appear to require extra costs for the Police Department.

**Oversight** assumes the St. Joseph Police Department could absorb the additional cost that may result from this proposal within existing resources.

Due to time constraints officials from the **Missouri State Highway Patrol** have not responded to Oversight's request for fiscal information.

**Sections 198.525:**

Officials from the **Department of Social Services** assume the proposal would have no fiscal impact on their agency.

Officials from the **Department of Mental Health** each assume the proposal would have no fiscal impact on their agency.

In response to a previous version of this proposal, officials from the **Department of Health and Senior Services** assume the proposal would have no fiscal impact on their agency.

**Section 198.527 & 198.545:**

Officials from the **Department of Social Services - Family Support Division (FSD)** assume there is no impact to the FSD because these investigations are completed by Department of Health and Senior Services.

Officials from the **Department of Social Services - MO HealthNet Division (MHD)** states the Department of Health and Senior Services ensures the uniformity of application of regulation standards in long-term care facilities throughout the state.

This legislation does not change the reimbursement methodology for long-term care facilities; therefore, there is no fiscal impact to the MHD.

In response to a similar proposal from this year (HB 966), officials from the **Department of Health and Senior Services (DHSS)** assume this legislation would give the facility the option to request an informal dispute resolution conference with a representative peer review committee for any deficiency received during an inspection of complaint investigation. The Department

ASSUMPTION (continued)

will establish the representative peer review committee and also keep in place an internal informal dispute resolution (IDR) process in the event the facility does not choose the non-departmental option.

To effectively establish and manage the peer review process including selection, training, scheduling, conducting, and follow up in the time frame required by the legislation, the Department would require an additional Hearings Officer II (Range A-25, step G, \$38,700) and an Administrative Office Support Assistant (Range 15-step F, \$26,784). Although the proposed legislation states the facility shall pay for any costs associated with the non-departmental review process, staff will be required with regulatory and management expertise to guide and facilitate the process.

Additionally, the legislation mandates an additional review by the DHSS to approve or disapprove the peer review decisions. This would require conduct of a complete review of the case and associated exhibits. The legislation does not indicate who will collect payment if the non-departmental process is used. If the Department is to coordinate the receipt and disbursement of payments, staff will be necessary to review expenses to be paid by the facility, collection of any funds, and appropriate reimbursement of peer review committee members.

Section 198.545 of the proposed legislation states, "Any facility licensed under this chapter shall have the opportunity to contest any deficiency received during an inspection or complaint investigation conducted under sections 198.026 and 198.532 by requesting an informed dispute resolution conference with a representative peer review committee." The current IDR process is performed through a desk review. If the proposed legislation were passed, redundant programs would be maintained by the department: the IDR process through desk review and the IDR process through a peer review committee.

**Oversight** assumes the DHSS could incorporate the IDR process in legislation with the existing IDR process the DHSS is currently doing. Therefore, Oversight assumes the DHSS could absorb a one Hearings Officer II FTE and one Administrative Office Support Assistant FTE.

**Section 701.355:**

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** assume the proposal would have no fiscal impact on their agency.

Officials from the **Department of Public Safety - Division of Fire Safety** states the Elevator Safety program is housed within the Division of Fire Safety. This legislation also allows the

ASSUMPTION (continued)

Elevator Safety Board to promulgate rules governing the licensing of elevator mechanics and elevator contractors. The process and fee structure has not been discussed with Division administration.

There are approximately 500 elevator mechanics and 50 elevator contractors in the State of Missouri. At this time, the Division is uncertain as to the process or fee structure for licensing these individuals which would be desired by the Board, and therefore cannot provide a firm fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> - Department of Elementary and Secondary Education*			
Reduced appropriations to the State School Moneys Fund (from deduction of fine revenue from previous year)	\$0	Unknown	Unknown
<u>Costs</u> - Department of Corrections#			
Incarceration/probation costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> - Department of Health and Senior Services			
Personal Service	(\$686,220)	(\$376,934)	(\$388,242)
Fringe Benefits	(\$333,709)	(\$183,303)	(\$188,802)
Equipment and Expense	(\$345,088)	(\$159,815)	(\$165,669)
<u>Total Costs - DHSS</u>	<u>(\$1,365,017)</u>	<u>(\$720,052)</u>	<u>(\$742,713)</u>
FTE Change - DHSS	12 FTE	12 FTE	12 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*#</b>	(\$1,465,017)	(\$820,052)	(\$842,713)
Estimated Net FTE Change for General Revenue Fund	12 FTE	12 FTE	12 FTE

\*Oversight assumes cost will exceed savings and has not included it in the net effect on GR.

#Oversight has included \$100,000 in net effect on GR.

**STATE SCHOOL MONEYS FUND**

Savings - Department of Elementary and Secondary Education

Reduced distributions to local school districts	\$0	Unknown	Unknown
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Losses - Department of Elementary and Secondary Education

Reduced appropriations from General Revenue Fund	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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**CRIMINAL RECORDS FUND**

Income - Missouri State Highway Patrol  
 Revenue from background checks

\$3,234,000	\$501,600	\$501,600
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<b>ESTIMATED NET EFFECT ON CRIMINAL RECORDS FUND</b>	<b><u>\$3,234,000</u></b>	<b><u>\$501,600</u></b>	<b><u>\$501,600</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
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**POLITICAL SUBDIVISIONS**

Revenues - School Districts  
 Income from fines

Unknown	Unknown	Unknown
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Losses - School Districts  
 Reduced distributions from State School Moneys Fund

<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>	<b><u>Unknown</u></b>	<b><u>Unknown to (Unknown)</u></b>	<b><u>Unknown to (Unknown)</u></b>
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FISCAL IMPACT - Small Business

Section 198.545.1 states, "If the facility chooses a committee of nondepartmental personnel to perform the peer review, the facility shall pay for any costs associated with such review." If a facility chooses a committee of nondepartmental personnel, it could increase their cost.

FISCAL DESCRIPTION

*Sections 192.925, 192.2000, 192.2001, 192.2003, 192.2006, 192.2009, 192.2012, 192.2015, 192.2020, 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, 198.532, 198.700, 198.703, 198.705, 198.708, 208.909, 210.900, 210.906, 565.180, 565.182, 565.184, 565.188, 565.200, 570.223, 660.010:*

This legislation changes the laws regarding protections for vulnerable adults and children. In its main provisions, the legislation:

- (1) Adds reducing the incidents of financial exploitation of the elderly to the public education and awareness program regarding elder abuse and neglect administered by the Department of Health and Senior Services (Section 192.925, RSMo);
- (2) Transfers the Division of Aging from the Department of Social Services to the Department of Health and Senior Services (Section 192.2000);
- (3) Transfers the powers, duties, and functions of the Board of Nursing Home Administrators from the Department of Social Services to the Department of Health and Senior Services (Section 192.2000.9);
- (4) Revises the definition of "protective services" to mean a service provided by the state or other governmental or private organization or individual which is necessary for the safety and well being of an elderly person or an adult with disabilities who is in danger of being mistreated or neglected and unable to take care of or protect himself or herself from harm (Section 192.2003);
- (5) Grants immunity from civil and criminal liability for any person making a report of abuse or neglect to the Department of Health and Senior Services unless the person acts negligently, recklessly, in bad faith, or with malicious purpose (Sections 192.2103.5 and 192.2150.11);

FISCAL DESCRIPTION (continued)

(6) Requires any health service provider, health service vendor employee, personal care attendant, or any person having reasonable cause to believe that a patient or consumer has been a victim of misappropriation of a patient's money or property or has falsified documents verifying delivery of health care services to report the information to the Department of Health and Senior Services within 24 hours of discovering the act (Sections 192.2150.2 and 192.2150.3);

(7) Requires the department, upon receipt of an imminent danger report, to initiate a thorough investigation promptly, but removes the 24-hour time requirement. If an investigation indicates a crime has occurred, the appropriate law enforcement agency and the prosecutor 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 who is incapacitated and resides at a state-licensed facility. The Department may also notify the resident's family members, guardians, or conservators (Sections 192.2150.6 and 192.2150.7);

(8) Requires the Department of Health and Senior Services to keep confidential the names of individuals submitting abuse and misappropriation reports unless the complainant agrees to the disclosure of his or her name; it is necessary to prevent further abuse and neglect, misappropriation of funds, or document falsification; 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 (Section 192.2150.9);

(9) Requires the Department of Health and Senior Services to add persons who have falsified documents verifying service delivery to consumers or have misappropriated property or moneys belonging to consumers to the employee disqualification list for employees of any provider or consumer (Section 192.2150.12);

(10) Protects a patient and the patient's family members or an employee from eviction, harassment, dismissal, or retaliation due to the filing of a report of a violation or suspected violation of the provisions of the legislation (Section 192.2150.13);

(11) Requires potential patients and consumers whose services are funded by the MO HealthNet Program to be checked against the sexual offender registry maintained by the State Highway Patrol and requires the Department of Health and Senior Services to notify providers at the time of referral if a patient or consumer is on the registry (Section 192.2150.15);

(12) Specifies that any person failing to file a required report within the time guidelines and any person or provider who misuses or diverts the consumer's use of any personal property or money

FISCAL DESCRIPTION (continued)

or falsifies service delivery documents will be guilty of a class A misdemeanor. Any provider or employee 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 (Sections 192.2153.1 - 192.2153.3);

(13) Authorizes the Department of Health and Senior Services to assess a \$1,000 fine on any provider who willfully and knowingly fails to report known abuse by an employee. Any provider may seek a review of a department's decision by the Administrative Hearing Commission which may be appealed to the circuit court in the county where the violation occurred (Section 192.2153.4);

(14) Specifies that any person or entity who unlawfully discloses information from the employee disqualification list will be guilty of an infraction; and upon request from the Division of Employment Security within the Department of Labor and Industrial Relations, the Department of Social Services must provide copies of employee investigation reports of individuals on the list. Persons on the list cannot be paid from public moneys for personal care assistant services (Sections 192.2175.11 - 192.2175.12);

(15) Requires health care providers or employment agencies to make inquires to the Department of Health and Senior Services to determine if a full or part-time applicant for employment which involves consumer contact is on the employee disqualification list prior to hiring the applicant (Section 192.2178.3);

(16) Prohibits, as of August 28, 2009, a provider from hiring any person with a disqualifying history unless the person has submitted an approved good cause waiver. Providers cannot continue to employ people who were hired prior to August 28, 2009, with disqualifying backgrounds after March 1, 2009, unless the person submits an approved good cause waiver prior to January 1, 2009. An employer who knowingly hires a person who is a registered sexual offender on or after August 28, 2009, will be guilty of a class A misdemeanor (Sections 192.2178.7 and 192.2178.8);

(17) Specifies that a consumer-directed services vendor or hospice will be guilty of a class A misdemeanor if it does not request a background screening check from the family care safety registry prior to allowing the employee to have contact with an in-home patient (Section 192.2178.10);

(18) Prohibits any state or federal funding for personal care assistance services if the attendant is on the employee disqualification list; is a registered sexual offender; or has a disqualifying criminal history, unless a good cause waiver is obtained (Section 208.909.4);

FISCAL DESCRIPTION (continued)

(19) Defines “related personal care” as care provided for a person with a physical or medical disability by an adult relative as it relates to the Family Care Safety Act (Section 210.900.2);

(20) Requires any person responsible for the care of a person 60 years of age or older who has cause to suspect that the person has been abused, neglected, or financially exploited by a person, firm, or corporation to make a report to the Department of Health and Senior Services. Any person who purposely files a false report will be guilty of a class D felony (Section 565.188.1);

(21) Specifies that any person who commits the offense of identity theft against an elderly or disabled person can be fined up to one and one-half times the maximum fine, imprisoned for up to one and one-half times the maximum sentence term, or both (Section 570.233.3).

**Sections 198.074 & 198.075:**

The proposed legislation changes the laws regarding sprinkler systems in long-term care facilities. In its main provisions, the legislation:

(1) Clarifies existing language regarding which facilities are required to comply and the date by which they must comply with the provisions regarding the installation of sprinkler systems;

(2) Allows facilities that have submitted a plan for compliance for the installation of a commercial sprinkler system to be eligible for a loan from the Department of Health and Senior Services;

(3) Requires facilities that have submitted a plan for compliance for the installation of a commercial sprinkler system to equip each sleeping room in the facility with a battery-powered smoke alarm until the commercial system is completely installed. The facilities must also be equipped with heat detectors interconnected to the fire alarm system in areas subject to nuisance alarms; and

(4) Allows local fire protection districts or fire departments that are deemed qualified by the State Fire Marshal to conduct fire safety inspections of these facilities for compliance with state statutes regarding the installation of the sprinkler system.

**Sections 198.187:**

This legislation requires all resident of long-term care facilities to have background checks for the purpose of identifying those residents who are sexual offenders.

FISCAL DESCRIPTION (continued)

**Sections 198.525:**

Under the proposed legislation the Department of Health and Senior Services shall not assign an individual to inspect or survey a long-term care facility in which the surveyor was an employee of such facility within the preceding five years.

The Department shall require disclosure statements by newly hired and currently employed inspectors and surveyors of long-term care facilities regarding his or her past employment in long-term care facilities and the past employment of family members and close friends in long-term care facilities. Any long-term care facility may notify the Department if there is a concern about an inspector or surveyor based on the public disclosure statements. The legislation delineates the Department's duties upon receiving such notification of concern.

This legislation is federally mandated by 42 CFR 488.314(a)(4).

This legislation would duplicate federal regulations. 42 CFR 488.314(a)(4) currently impose a two year prohibition for inspecting a facility in which the person was employed.

This legislation would not require additional capital improvements or rental space.

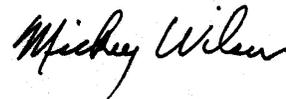
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Mickey Wilson, CPA  
Director  
April 23, 2009