

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0908-01  
Bill No.: SB 264  
Subject: Abortion; Crime and Punishment; Department of Health and Senior Services  
Type: Original  
Date: February 23, 2009

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Bill Summary: This legislation enacts provisions regarding the coercion of abortions.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Could exceed \$891,264)	(Could exceed \$1,047,063)	(Could exceed \$1,072,476)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Could exceed \$891,264)</b>	<b>(Could exceed \$1,047,063)</b>	<b>(Could exceed \$1,072,476)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 10 pages.

<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>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** and the **Office of Administration-Administrative Hearing Commission** each assume the proposal would have no fiscal impact on their respective agencies.

In response to a similar proposal from this year (HB 434), officials from the **Missouri State Highway Patrol** 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 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 **Office of the Attorney General (AGO)** state the costs of implementing the proposal could be absorbed with existing resources. However, AGO assumes that because this proposal has the potential to be the subject of state and federal litigation, potential costs are unknown.

**Oversight** assumes, because the potential for litigation is speculative, that the AGO will not incur significant costs related to this proposal. If a fiscal impact were to result, the AGO may request additional funding through the appropriations process.

ASSUMPTION (continued)

Officials from the **Department of Social Services (DSS)** assume there is no fiscal impact to the Department. The Children's Division does not believe there would be a considerable increase in calls made to the child abuse and neglect hotline as a result of this legislation.

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 crime of coercing an abortion.

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.

Officials from the **Department of Corrections (DOC)** states that currently, the DOC has no offenders incarcerated for abortions or related offenses. 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 direct offender cost either through 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).

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 each 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.

Officials from the **Department of Health and Senior Services (DHSS)** state the following:

**Section 188.027.1:**

DHSS is to provide printed materials or an informational video to the physician performing the abortion.

ASSUMPTION (continued)

In calendar year 2007, there were 11,470 resident abortions performed in Missouri. Since the Department has no way of determining exactly how many abortions will be conducted at each facility each year, it is assumed extra materials will need to be produced and provided to each facility. The Department assumes pamphlets/brochures for at least two times the number of 2007 abortions ( $11,460 \times 2 = 22,940$ , rounded up to 23,000) will need to be printed and distributed to the providers. At an estimated cost of \$1.00 per pamphlet/brochure, \$23,000 would be needed to purchase 23,000 copies.

Proposed Section 188.027.1 (3) requires DHSS to provide the physician with printed materials or an informational video describing the various methods of abortion relevant to the stage of pregnancy, as well as any medical risks associated with each method. Subdivision (5) requires information be provided on the possibility of the procedure causing pain to a fetus of at least 22 weeks gestation. All of this information will be provided in one informational sheet listing the types of abortions as well as the side effects. This will result in a cost of \$2,300 ( $23,000 \times \$0.10$ ).

**Section 188.027.1 (4):**

This section states, "The woman shall be provided with a geographically indexed list maintained by the Department of Health and Senior Services of health care providers, facilities, and clinics that perform ultrasounds, including those that offer ultrasounds free of charge." The Department does not currently maintain information regarding ultrasound providers and is unaware of any licensing requirements for them. Therefore it is questionable whether there is currently a way to gather this information comprehensively. The cost of collecting and providing this information is unknown.

**Section 188.027.1 (6b):**

At least 24 hours prior to the procedure, the treating physician is required to explain the services available through the Missouri Alternatives to Abortion Program as well as any other programs and services available to pregnant women and mothers of newborn children that are offered by public and private agencies. This could potentially increase the number of referrals and the amount of services provided through the Alternatives to Abortion Program.

There were 11,470 resident abortions performed in 2007. The cost per client per year for the Alternatives to Abortion program in 2008 was \$806.94. It is estimated by the U.S. Census, 2007 American Community Survey that 34 percent of Missouri women 15 years to 50 years or older are at 200 percent of the federal poverty level, based on the census. Based on this assumption

ASSUMPTION (continued)

3,900 (11,470 x 0.34) women would be eligible for services provided through the Alternatives to Abortion program. Cost for services for an additional 3,900 women would be \$3,147,066 (3,900 x \$806.94).

The Department is unable to project how many of the estimated women eligible for the program would actually seek services. Therefore, the estimated fiscal impact for this portion is estimated to range between \$0 and \$3,147,066.

**Section 188.027.3:**

Requires the physician to provide the woman with a checklist form stating that she has been presented all the information required. This checklist is to be provided by DHSS. The cost for 23,000 pre-abortion checklists is \$6,325 (23,000 x \$0.275 each).

**Section 188.027.10:**

Requires every abortion facility to display signs that contain a statement enforcing the idea that consent to an abortion is voluntary. DHSS shall promulgate rules specifying the location of the signs. The sign requirement must be considered as a condition of licensure of abortion facilities under Chapter 197. Promulgation and enforcement of the necessary rules would not result in a significant cost to the Department and will therefore be absorbed with existing resources. The number of providers is unknown at this time. It is estimated that a minimum of 1,000 "coercion" posters will be need to be printed and distributed at a cost of \$1,000 (1,000 posters x \$1.00 each). Shipping the posters to the providers would be approximately \$3,000 (1,000 posters x \$3.00 shipping).

**Section 188.027.11:**

Requires DHSS to make all of the information provided to the physicians available to the public through the DHSS website, as well as maintain a toll-free twenty-four hour hotline where a caller can obtain information on a regional level concerning the agencies and services described in subsection 1. Information is currently available on the DHSS website under "Alternatives to Abortion" and "Unplanned Pregnancies". DHSS currently operates a toll-free 24 hour hotline that provides information on the agencies providing alternatives to abortion services regionally. According to the proposed legislation, the Department would be required to provide additional information through this hotline, including medical information. The current contractors providing services for the 24-hour hotline are not trained to provide this type of information;

ASSUMPTION (continued)

therefore extensive training would be required for the current contractor or an additional hotline will be required. The Department is in the process of researching the cost of providing this service, but at this time is not able to determine the exact cost for this service. The Department estimates the cost will be approximately \$100,000 annually. If the Department later determines the cost would be significantly less, a revised fiscal note response will be submitted.

**Oversight** assumes 100% of eligibles would not participate in the program. DHSS assumed a range of \$0 and \$3,147,066 for the fiscal impact. For fiscal note purposes only, Oversight has assumed 1 out of every 4 women would participate  $\{\$786,767 = \$806.94 \times 975 (3,900 \times 25\%)\}$

Officials from the **Office of Prosecution Services (OPS)** assume the legislation will have no measurable fiscal impact. The potential fiscal impact on elected prosecuting attorneys will necessarily depend on the number of cases referred to their office for prosecution.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE FUND</b>			
<u>Costs - Department of Corrections</u>			
Incarceration/probation costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
<u>Costs - Department of Health and Senior Services</u>			
Fetal Development Charts	(\$23,000)	(\$23,690)	(\$24,401)
Type of Abortion Fact Sheet	(\$2,300)	(\$2,369)	(\$2,440)
Ultrasound Provider List	(Unknown)	(Unknown)	(Unknown)
Alternatives to Abortion Services	(Could exceed \$655,639)	(Could exceed \$810,369)	(Could exceed \$834,681)
Pre-Abortion Checklists	(\$6,325)	(\$6,515)	(\$6,710)
Coercion and Alternative Posters	(\$1,000)	(\$1,030)	(\$1,061)
Shipping Coercion & Alt Posters	(\$3,000)	(\$3,090)	(\$3,183)
24-Hour Hot Line	<u>(\$100,000)</u>	<u>(\$100,000)</u>	<u>(\$100,000)</u>
<u>Total Costs - DHSS</u>	<u>(Could exceed \$791,264)</u>	<u>(Could exceed \$947,063)</u>	<u>(Could exceed \$972,476)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Could exceed \$891,264)</u></b>	<b><u>(Could exceed \$1,047,063)</u></b>	<b><u>(Could exceed \$1,072,476)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposed legislation may require increased regulation relating to facilities that provide abortions and physician who provide chemical abortions. This could lead to additional costs for these facilities.



## FISCAL DESCRIPTION

This legislation modifies the informed consent requirements for an abortion by adding new requirements to be obtained at least twenty-four hours prior to an abortion. Some of the new requirements include presenting to the pregnant woman various new printed materials and videos, to be developed by the Department of Health and Senior Services by November 30, 2009, detailing the risks of an abortion and the physiological characteristics of an unborn child at two-week gestational increments. The woman must also be provided with the gestational age of the unborn child at the time the abortion is to be performed and must be given an opportunity to view, at least 24 hours prior to an abortion, an active ultrasound of the unborn child and hear the heartbeat of the unborn child, if the heartbeat is audible. Prior to an abortion being performed past twenty-two weeks gestational age, the woman must be provided information regarding the possibility of the abortion causing pain to the unborn child. The materials presented to the woman shall also prominently display a statement that no one can coerce the woman to have an abortion and that it is against the law for a husband, a boyfriend, a parent, a friend, a medical care provider, or any other person to coerce her in any way to have an abortion.

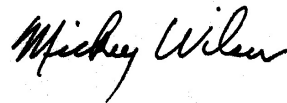
In addition to the written informed consent, the legislation requires the physician or a qualified professional to discuss the medical assistance and counseling resources available, advise the woman of the father's liability for child support, and provide information about the Alternatives to Abortion Program. All information required to be provided to a woman shall be presented to her individually in the physical presence of the woman. The abortion cannot be performed until the woman certifies in writing on a checklist form that she has been presented all the required information and that she has been given the opportunity to view an ultrasound, and to choose to have an anesthetic or analgesic administered to the unborn child.

This legislation also creates the crime of knowingly coercing a woman to seek or obtain an abortion. Such coercion includes committing or threatening to do the following against a pregnant woman or her family: assault, domestic assault, stalking or aggravated stalking, or any other criminal offense, as well as committing, attempting or threatening to: forcibly or without the pregnant woman's knowledge causing a woman to ingest a substance with the intent to cause an abortion, discharging the woman from her employment, or revoking a scholarship awarded to the woman. A violation of coercing an abortion may range from a Class A felony to a Class A misdemeanor, depending on the prescribed circumstances. This legislation also creates the crime of knowingly performing, inducing or assisting in an abortion on a woman who is a victim of coerced abortion. The elements of the crime are specified in the legislation and a violation of such crime constitutes a Class C felony.

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-Administrative Hearing Commission  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Corrections  
Department of Health and Senior Services  
Department of Social Services  
Department of Public Safety  
Office of the Secretary of State  
Office of the State Public Defender  
Missouri State Highway Patrol  
Office of Prosecution Services



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