

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4886-05
Bill No.: SCS for SB 710
Subject: Health Care Professionals; Health Department; Drugs and Controlled Substances;
 Pharmacy
Type: Original
Date: February 24, 2012

Bill Summary: Establishes the Prescription Drug Monitoring Program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Donated			
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Insurance, Financial Institutions, and Professional Registration, Department of Social Services, Department of Public Safety - Missouri State Highway Patrol** and the **University of Missouri** assume the proposal will have no fiscal impact on their organizations.

In response to the previous version of this proposal, officials from the **Boone County Sheriff's Department, Springfield Police Department** and **Jefferson City Police Department** assumed the proposal would have no fiscal impact on their organizations.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

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

Officials from the **Department of Elementary and Secondary Education (DESE)** state there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts 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 assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Office of 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 Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. **The fiscal**

ASSUMPTION (continued)

impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect that additional funding would be required to meet these costs. However, it is also recognized 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 within 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 Corrections (DOC)** state the penalty provisions for violations, the component of the bill to have a potential fiscal impact for DOC, is for a class A misdemeanor. Currently, 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 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 supervision provided by the Board of Probation and Prolongation (FY 11 average of \$5.12 per offender, per day, or an annual cost of \$1,869 per offender).

The DOC assumes supervision by the DOC through probation 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.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal will have no measurable fiscal impact on the OPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

Oversight assumes the potential responsibilities imposed on county prosecutors as a result of this proposal, will be absorbable within current funding and staffing levels.

Officials from the **Department of Mental Health (DMH)** provide that state operated hospitals' initial set-up of records, monthly maintenance, and logging of activity would be required to comply with the provisions of the Prescription Drug Monitoring Program Act; however, this cost should be minimal. Since the proposal requires that the program be funded exclusively from grants, gifts and donations, it can be assumed that the DMH would experience no fiscal impact from the legislation.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DHSS)** provide the following assumptions and information:

Section 195.453.1

This section of the proposal states, in part:

“...The department may apply for any available grants and shall accept any gifts, grants, or donations to develop and maintain the program. All funding for prescription drug monitoring program shall be provided exclusively by gifts, grants, and donations...”

The DHSS assumes none of these costs associated with a prescription drug monitoring system will be funded with General Revenue. Also, since the DHSS is not aware of any potential grant funding opportunities at this time, none of the prescription monitoring costs are assumed to be funded by grants. All costs of the prescription monitoring program (Sections 195.450 through 195.465 of the proposal) are, therefore, assumed to be funded solely by gifts and donations deposited into the Donated Fund. At this time, the DHSS is not aware of any potential gifts for donations for this purpose.

Further, the DHSS assumes costs related to a prescription monitoring program would commence in FY 2013. However, if gifts, grants, or donations sufficient to fund the prescription monitoring program on an ongoing basis are not received, it is assumed the program would not be implemented.

Sections 195.450 through 195.465

One Health and Senior Services Manager (\$40,212 annually) will be needed to perform the following duties:

- Draft a Request for Proposal to solicit bids for the required database. Once the contract is awarded, this individual will be needed on an ongoing basis to monitor the database contract and program, maintain ongoing communication with professional organizations regarding compliance with reporting requirements, and other state and local agencies and the public regarding the program;
- Coordinate with investigative management of the Bureau of Narcotics and Dangerous Drugs (BNDD) for enforcement activities and with law enforcement and regulatory agencies of Missouri and other states for sharing data and tracking outcomes;
- Develop rules, policies, and procedures for reporting by dispensers and access to data by authorized parties;

ASSUMPTION (continued)

- Provide technical assistance to program participants on matters relating to the program;
- Supervise subordinate staff involved in program implementation;
- Design and prepare reports of program data and review data collected to determine trends;
- Provide required educational programs regarding the Prescription Drug Monitoring Program required in Section 195.468; and
- Develop reports to the General Assembly regarding the pilot project on prescription fraud (Section 195.471).

One Senior Office Support Assistant (\$24,576 annually) will:

- Provide clerical support to the program;
- Respond to inquiries and requests for database reports received;
- Perform coordination of communication with other agencies and the public and maintenance of memoranda of understanding for data sharing;
- Assist practitioners in obtaining access to the reporting subsystem of the program
- Generate and provide reports as requested by authorized individuals and agencies that cannot access this information via the Internet, and
- Respond to telephone inquiries regarding the program as well as answering the toll-free number established for reporting prescription fraud (Section 195.471).

One Investigative Manager (\$40,212 annually) will:

- Review database information;
- Assign and supervise investigations;
- Assist the manager in operating the database;
- Supervise investigative staff; and
- Assist the manager in providing the required educational courses (Section 195.468).

Three Investigator II positions (\$35,952 each, annually) will be needed to respond to complaints and conduct investigations. These positions are assumed to be telecommuters.

An unknown, greater than \$1,000,000 amount of support from ITSD will be needed to assist DHSS in the first year to develop/purchase, establish, and maintain a Prescription Drug Monitoring Program for the monitoring of prescribing and dispensing of all schedule II, III, IV, and V controlled substances by all professionals licensed to prescribe or dispense such substances in this state. On-going ITSD annual costs for updating and maintaining the online system after the first year are estimated to be \$200,000.

ASSUMPTION (continued)

Section 195.453.5

This section requires the DHSS to reimburse dispensers for fees and other direct costs of transmitting the required information. The DHSS is unable to compute the amount of any reimbursement, as both the nature and amount of any fees and/or any direct costs that would be incurred by the dispensers are unknown. Therefore, the DHSS considers the amount that would be required in order to reimburse dispensers to be unknown.

Section 195.474

The toll-free hotline required by the pilot project will have a one-time setup fee of \$100 with a \$.07 charge per minute. There will be an estimated 1,000 calls per year at an average of 5 minutes each. ($1,000 \times 5 = 5,000 \times .07 = \350 per year).

Section 195.474.5 of the proposal states in part:

“The department shall implement and provide all monitoring under the pilot project with existing department employees. Nothing in this section shall be construed as authorizing the hiring of additional employees to implement this pilot project and the department is required to implement this pilot project upon receipt of gifts, grants, and donations received for such purpose, without any additional state appropriations or department staff; except that, the department may enter into agreements with other state agencies or a private vendor, as necessary, to ensure the effective operations of the program if such agreements are funded solely from gifts, grants, and donations.”

The proposed legislation requires that the pilot project be established by January 1, 2014; therefore, the first year of operations is assumed to be FY 14 for fiscal note computation purposes. However, unless gifts or donations are received to fund the costs of the pilot project, the assumption is made that it will not be undertaken.

In summary, the DHSS assumes the proposal would have a cost to Donated Funds of Unknown greater than \$1,397,450 for FY 13; Unknown greater than \$664,698 for FY 14; and Unknown greater than \$670,136 for FY 15.

Oversight assumes the DHSS would have to receive assurance of donated funds or grant monies prior to implementing the provisions of this proposal. However, for fiscal note purposes, the proposal would have no net fiscal impact because: 1) the Prescription Drug Monitoring Program does not receive sufficient funds to cover DHSS costs and is not implemented or 2) program donations and gifts are sufficient to cover the anticipated costs and income and expenditures net to \$0.

ASSUMPTION (continued)

For fiscal note purposes, based on DHSS being unaware of potential funding for the program, **Oversight** assumes the Prescription Drug Monitoring Program will not be implemented and therefore, there is no fiscal impact for this proposal.

Oversight notes section 195.465 provides for administrative penalties for failure to submit dispensation monitoring information or knowingly submitting incorrect information. The penalties are assessed through order by the director of the DHSS and may be appealed through the Administrative Hearing Commission. **Oversight** assumes any penalty revenues that may be generated cannot be determined and therefore, are not presenting penalty revenue in the fiscal note.

Officials from the **Office of Attorney General (AGO)** did not respond to **Oversight's** request for a statement of fiscal impact. However, in response to similar legislation from the current session (HB 1193), the AGO assumed any potential costs arising from this proposal could be absorbed with existing resources. If there is a significant increase in the number of referrals, the AGO may seek additional appropriation.

Officials from the **Office of State Public Defender (SPD)** did not respond to **Oversight's** request for a statement of fiscal impact. However, in response to an earlier version of this proposal, officials from the SPD stated, for fiscal not purposes, that they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with any of the proposed new crimes relating to dispensation of pharmaceuticals monitoring. Disclosures of dispensation monitoring information would become a Class A misdemeanor.

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 effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

No other local law enforcement officials responded to **Oversight's** request for a statement of fiscal impact.

No hospitals responded to **Oversight's** request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

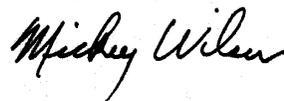
All funding for the Prescription Drug Monitoring Program (section 195.453) shall be provided exclusively by grants, gifts and donations.

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
Office of State Courts Administrator
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Corrections
Department of Elementary and Secondary Education
Department of Social Services
Department of Public Safety -
 Missouri State Highway Patrol
Joint Committee on Administrative Rules
Office of Prosecution Services
Office of Secretary of State
University of Missouri
Boone County Sheriff's Department
Jefferson City Police Department
Springfield Police Department

NOT RESPONDING: Office of Attorney General and Office of State Public Defender



L.R. No. 4886-05
Bill No. SB 710
Page 10 of 10
February 24, 2012

Mickey Wilson, CPA
Director
February 24, 2012