

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4964-06
Bill No.: SCS for HCS for HB 1193
Subject: Drugs and Controlled Substances; Pharmacy
Type: Original
Date: April 10, 2012

Bill Summary: Establishes the Prescription Drug Monitoring Program Act to monitor the prescribing and dispensing of controlled substances.

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
Department of Health Donated*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Income and expenditures net to \$0.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 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
Department of Health Donated	6	6	6
Total Estimated Net Effect on FTE	6	6	6

- 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** and the **Department of Public Safety - Missouri State Highway Patrol** assume the proposal will 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 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 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 **Office of Administration - Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if similar bills also pass, resulting in more cases, there will be a fiscal impact.

Officials from the **Office of Attorney General (AGO)** note that Section 195.465.1 provides that dispensers who knowingly fail to submit information or knowingly submit incorrect information shall be subject to an administrative penalty and may appeal the penalty to the Administrative Hearing Commission. The AGO assume this will result in an increase in caseload. Without knowing the number of resulting appeals, the AGO assumes any potential costs arising from this proposal can be absorbed with existing resources. If there is a significant increase in the number of referrals, or if multiple provisions pass, the AGO may seek additional appropriations.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** 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.

ASSUMPTION (continued)

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.

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.

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.

ASSUMPTION (continued)

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

Section 195.453.1

Section 195.453.1 of the proposed legislation 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."

DHSS assumes none of the costs associated with a prescription drug monitoring system will be funded with General Revenue. Also, since 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 proposed legislation) are therefore assumed to be funded solely by gifts and donations deposited into the Donated Fund. At this time we are not aware of any potential gifts or donations for this purpose.

Further, 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.

Section 195.450 through Section 195.465

One Health and Senior Services Manager (Band 1) 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 and maintain ongoing communication with professional organizations regarding compliance with reporting requirements, other state and local agencies, and the public regarding the program;
- Coordinate with investigative management of the BNDD for enforcement activities and with law enforcement and regulatory agencies of this 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;
- 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 to determine trends;
- Provide required educational programs regarding the PMP (Section 195.468 of the proposed legislation); and
- Develop reports to General Assembly regarding the pilot project on prescription fraud (Section 195.471 of the proposed legislation).

ASSUMPTION (continued)

One Senior Office Support Assistant (Keyboarding) 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 e-mail or generate, print, and fax reports as requested by authorized individuals and agencies that cannot access this information via the internet; and
- Respond to telephone inquiries regarding the program and answer the toll-free number established for reporting prescription fraud (Section 195.471 of the proposed legislation).

One Investigative Manager (Band 1) will:

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

Three Investigator II positions 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 and program the Prescription Drug Monitoring Program for the monitoring of prescribing and dispensing of all schedule II, III, and IV 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.

Section 195.453.5

Section 195.453.5 of the proposed legislation requires DHSS to reimburse dispensers for fees and other direct costs of transmitting the required information. 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, 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 five minutes each with an estimated yearly cost of \$350 ($1,000 \times 5 = 5,000 \times .07 = \350).

ASSUMPTION (continued)

Section 195.474.5 of the proposed legislation 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, a state agency of another state, or a private vendor, as necessary, to operate the pilot program and/or 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 2014 for fiscal note computation purposes.

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 for fiscal note purposes, the proposal will have no net fiscal impact because grants, gifts and donations are presumed to equal expenditures. **Oversight** notes the provisions of the proposal do not provide a fund for the gifts, grants and donations or expenditures. Therefore, for fiscal note purposes only, **Oversight** is creating the Prescription Drug Monitoring Program Fund to present the income and expenditures of the program.

Officials from the **Office of Prosecution Services (OPS)** did not respond to **Oversight's** request for a statement of fiscal impact. However, in response to an earlier version of this proposal, the OPS assumed 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, but these potential costs are difficult to determine.

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

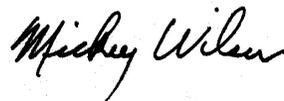
6FISCAL DESCRIPTION

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 Attorney General
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 Health and Senior Services
Department of Corrections
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
Office of State Public Defender



Mickey Wilson, CPA
Director
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