

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0661-01
Bill No.: SB 111
Subject: Health Care Professionals; Health Department; Drugs and Controlled Substances;
 Pharmacy
Type: Original
Date: February 2, 2015

Bill Summary: This proposal establishes a Prescription Drug Monitoring Program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(\$965,137)	(\$26,903,509)	(\$30,310,784)
Total Estimated Net Effect on General Revenue	(\$965,137)	(\$26,903,509)	(\$30,310,784)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	3	542	542
Total Estimated Net Effect on FTE	3	542	542

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services (DHSS)** state section 195.453 requires DHSS to establish and maintain a program monitoring the dispensing of all Schedule II, III, or IV controlled substances by all professionals licensed to dispense such substances in this state. Further, requirements in Sections 195.459.2 and .3, as well as section 195.465.1, would require real-time reporting at the time of dispensing and a real-time review by DHSS staff.

DHSS anticipates the need to hire the following staff on the dates indicated below:

One Program Manager Broad Band 3 (\$76,416 annually) to provide overall direction and management of the program, hired in September 2015.

Four (4) Broad Band 2 Managers (\$64,160 annually, each) to manage the Administrative Office Support Assistants (AOSAs) and Health Program Representatives in the daily operation of the program, hired in September 2016.

Two (2) Investigative Managers (\$45,120 annually, each) to develop and implement investigative standards and scope of investigative activities, one hired in September 2015, one in September 2016.

Two (2) Investigators III (\$39,984 annually, each) to supervise and train lower level investigative staff, and coordinate and participate in inspections/investigations, hired in September 2016.

Sixteen (16) Investigators II (\$37,176 annually, each) whose duties will include complaint investigation and inspections and review of submitted documents as they relate to denials, hired in September 2016.

Nine (9) Administrative Office Support Assistants (AOSA) (\$27,828 annually, each) to direct support functions for the program; plans, assigns, directs, and coordinates work schedules and activities of the staff, one hired in September 2015, eight hired in September 2016.

Fifteen (15) Senior Office Support Assistant (SOSA) (\$25,572 annually, each) whose duties will include providing overall clerical support for the program, hired in September 2016.

Four hundred and ninety-three (493) Health Program Representative I (\$30,672 annually, each) to review prescriptions and determine whether a similar prescription has been dispensed within the most recent day's supply limit from another dispenser, hired in September 2016.

ASSUMPTION (continued)

The average pharmacy fills 250 prescriptions per day. DHSS, Bureau of Narcotics and Dangerous Drugs (BNDD) estimates that typically 10 percent of these are for Schedule II, III, or IV controlled substances. For fiscal note purposes, DHSS estimates 25 prescriptions X 1,348 pharmacies = 33,700 prescriptions to be reviewed daily by DHSS.

DHSS assumes that each prescription would take five minutes to review. At this rate, 33,700 prescriptions would equal 168,500 minutes (33,700 prescriptions X 5 minutes) or approximately 2,808 work hours per day. This equates to 1,024,920 annual work hours (2,808 work hours X 365 days a year) or 493 Full Time Equivalent (FTE) (1,024,920/2,080 work hours per FTE per year) to review prescriptions. These FTE would be hired as Health Program Representatives (HPR) I.

It is assumed that 2/3 of the prescriptions would be filled between the hours of 8AM and 5PM and that 329 of the HPR Is (2/3 X 493) would work during those hours. When fully staffed, it is also assumed that the Broad Band 3 Manager, two (2) of the Broad Band 2 Managers, one (1) Investigative Manager, one (1) Investigator III, ten (10) Investigators II, six (6) AOSAs, and nine (9) of the SOSAs would also work the standard 8AM to 5PM shift. The remaining staff will be split between the two "off-hours" shifts. As a result, the largest number of staff working at any one time would be 359 (329+1+2+1+1+10+6+9).

Support from the Office of Administration (OA), Information Technology Services Division (ITSD) will be needed. Infrastructure costs have been calculated using the FY 2015 SDC (State Data Center) CAP (Cost Allocation Plan) document. ITSD costs assume the use of an application built for the State of Missouri and hosted in the SDC, as well as three servers to include development, testing and production of the application, with 100gb of disk storage for each. ITSD estimates total IT consultant costs, related expenditures, and on-going expenses to be \$736,201 for FY 2016; \$342,878 for FY 2017; and \$219,307 for FY 2018.

The DHSS estimates FY16 costs to the General Revenue (GR) Fund, including ITSD costs, of \$965,137; FY17 costs to GR of \$26,666,401; and FY18 costs to GR of \$30,454,798.

Officials from the **Office of Administration (OA), Division of Facilities Management, Design and Construction (FMDC)** indicates that DHSS stated only 359 of the additional FTE required under this proposal would be working at one time. Based on budget factors for FY 2016, FMDC recommends a cost of \$17.50 per square foot, per employee (359), including rent, utilities and janitorial services as provided:

ASSUMPTION (continued)

\$14.00 rental rate per sq. ft.
\$ 2.00 utilities per sq. ft.
\$ 1.50 janitorial per sq. ft.
Total \$17.50 per sq. ft.

359 FTE
X 230 sq. ft. per FTE
82,570 sq. ft.
X \$17.50 per sq. ft.
\$1,444,975 Annual Cost

Oversight will use DHSS rent, utilities and janitorial expense calculations for FY 2016 as only 3 FTE will be coming on at that time. However, for FYs 2017 and 2018, when the remainder of the FTE will be employed, Oversight will use OA-FMDC's calculated rent/space costs.

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime of disclosing pharmaceutical dispensation information, a new 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.

Officials from the **Department of Corrections (DOC)** state the penalty provisions for violations, the component of the bill to have potential fiscal impact for DOC, is for a class A misdemeanor. The DOC would not supervise these class A misdemeanor cases.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. 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.

ASSUMPTION (continued)

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

Officials from the **Office of Administration (OA), Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload.

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.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, the Department of Mental Health, the Department of Public Safety - Missouri State Highway Patrol, the Department of Social Services, the Joint Committee on Administrative Rules** and the **Office of State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
(§§195.450 - 195.468)			
<u>Costs - DHSS</u>			
Personal service	(\$124,470)	(\$14,210,096)	(\$17,192,163)
Fringe benefits	(\$64,731)	(\$7,389,960)	(\$8,940,784)
Equipment and expense	(\$29,610)	(\$3,479,476)	(\$2,440,403)
Rent and utilities	(\$10,125)	(\$1,481,099)	(\$1,518,127)
Total <u>Cost - DHSS</u>	<u>(\$228,936)</u>	<u>(\$26,560,631)</u>	<u>(\$30,091,477)</u>
FTE Change - DHSS	3 FTE	542 FTE	542 FTE
<u>Costs - OA-ITSD</u>			
IT Consultant expenditures and on-going support	(\$731,916)	(\$337,608)	(\$213,905)
Equipment and supplies	(\$4,285)	(\$5,270)	(\$5,402)
Total <u>Cost - OA-ITSD</u>	<u>(\$736,201)</u>	<u>(\$342,878)</u>	<u>(\$219,307)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND			
	<u>(\$965,137)</u>	<u>(\$26,903,509)</u>	<u>(\$30,310,784)</u>
Estimated Net FTE Change on the General Revenue Fund	3 FTE	542 FTE	542 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal may have a significant administrative impact on small business physicians who dispense drugs from their offices if the prescription data has to be submitted in real time.

FISCAL DESCRIPTION

This proposal establishes the Prescription Drug Monitoring Act. The Department of Health and Senior Services is required to establish and maintain a program to monitor the dispensing of all Schedule II through Schedule IV controlled substances in this state using an existing data aggregation platform through the State Data Center within the Office of Administration.

The Department shall ensure the privacy and security of the personal information while only aggregating necessary and appropriate information related to the prescribing or dispensing of the prescription. The aggregated information from each dispenser data source shall remain segregated from any other data source. All submitted prescription information shall be kept confidential with specified exceptions. Beginning August 28, 2017, the Department shall discard the data obtained from prescription drug monitoring program one year from the date the data was obtained under this act. A person authorized to have dispensation monitoring information under this act who knowingly discloses such information or who uses such information in a manner and for a purpose in violation of this act is guilty of a Class A misdemeanor.

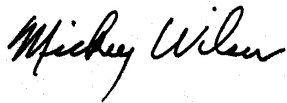
This act delineates the duties of both the dispenser and the Department for communicating in realtime when there is a prescription for a Schedule II through Schedule IV controlled substance. If the Department responds with a message that there was such a transaction within the day's supply limit, as determined by the Department, the pharmacy shall not dispense the medication before resolving the issue with the patient's physician or the department, or both. If the response is not timely and the transaction is concluded before a response by the Department, the dispenser may be required to assist law enforcement with an investigation.

The Department shall review the dispensation information and, if there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the Department shall notify the appropriate law enforcement or professional regulatory entity and provide dispensation information required for an investigation. If after staff review, it appears that there is reasonable cause to believe that a person has obtained a prescription fraudulently from more than one prescriber, the Department shall contact the prescribers and request copies of medical records concerning the prescriptions of concern. The prescribers shall provide the records, if possible, by fax or electronically. If after Department review of the provided records, it is clear that a person has obtained prescriptions under false pretenses, the entire matter shall be referred to the appropriate law enforcement or local prosecuting attorney for action.

This legislation is not federally mandated, will not duplicate any other program, but will require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Corrections
Department of Public Safety -
 Missouri State Highway Patrol
Department of Social Services
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Office of Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Office of Secretary of State
Office of State Public Defender



Mickey Wilson, CPA
Director
February 2, 2015

Ross Strobe
Assistant Director
February 2, 2015