

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0207-01  
Bill No.: SB 74  
Subject: Health Care; Health Care Professionals; Health and Senior Services Department;  
 Pharmacy; Physicians  
Type: Original  
Date: January 20, 2017

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
General Revenue	\$0	\$0 or (Could exceed \$993,447)	\$0 or (Could exceed \$6,729,124)	\$0 or (Could exceed \$6,708,543)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0 or (Could exceed \$993,447)</b>	<b>\$0 or (Could exceed \$6,729,124)</b>	<b>\$0 or (Could exceed \$6,708,543)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2021)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 17 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>Fully Implemented (FY 2021)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</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 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>Fully Implemented (FY 2021)</b>
General Revenue	0	0 or 4 FTE	0 or 36 FTE	0 or 39 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0 or 4 FTE</b>	<b>0 or 36 FTE</b>	<b>0 or 39 FTE</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>Fully Implemented (FY 2021)</b>
Local Government	\$0	\$0	\$0	\$0

## FISCAL ANALYSIS

### ASSUMPTION

#### **§§195.453-195.460 - Prescription drug monitoring**

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

DHSS, Division of Regulation and Licensure (DRL):

**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 195.458.2, 195.459.2, and 195.460.1 would require real-time reporting at the time of prescribing and dispensing with an automated system review and response to the prescriber or dispenser based on algorithms included in the system. Responses will be either "no concern" or "concern with an explanation" and the prescriber or dispenser will use that information along with their professional judgment to make the determination whether it is appropriate to prescribe or fill the prescription. All transmissions from dispensers and prescribers that resulted in a "concern with an explanation" will be reviewed by DHSS as time and staff permits and appropriate investigations, referrals, etc. will be completed.

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

One Health and Senior Services Manager (Band 1, \$45,600 annually) to manage the Administrative Office Support Assistants (AOSA) and Health Program Representatives (HPR) in the daily operation of the program and present educational programs; hired in November 2018 (FY19).

One Investigative Manager (Band 1, \$45,600 annually) to develop and implement investigative standards and scope of investigative activities and to manage the Investigators III; hired in November 2018 (FY19).

Two Investigators III (\$41,184 annually, each) to supervise and train lower level investigative staff, coordinate and participate in inspections/investigations; hired in July 2019 (FY20).

Eighteen Investigators II (\$38,304 annually, each) whose duties will include investigation and inspections related to "concern with an explanation" prescriptions; review of submitted documents as they relate to such prescriptions, etc.; hired in September 2019 (FY20).

ASSUMPTION (continued)

Two AOSAs (\$28,668 annually, each) to direct support functions for the program and plans, assigns, directs, and coordinates work schedules and activities of the staff; one hired in November 2018 (FY19) and one hired in September 2019 (FY20).

Two Senior Office Support Assistants (SOSA, \$26,340 annually, each) whose duties will include providing overall clerical support for the program, tracking documents, preparing packets for law enforcement referrals, etc.; hired in September 2019 (FY20).

Eight HPRs I/II (\$35,640 annually, each) to generate and perform preliminary review and follow-up on "concern with an explanation" prescriptions; hired in September 2019 (FY20).

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 or 25 per pharmacy (250 X 10%). For fiscal note purposes, DHSS estimates 12,501,250 prescriptions annually will be submitted to the system for review ( 25 prescriptions X 1,370 pharmacies = 34,250 prescriptions X 365 days = 12,501,250). It is further assumed that 117 licensed ambulatory surgery centers (ASCs) would dispense 10 times per day on 246 surgery days (no weekends and not on 15 holidays) for a total of 287,820 prescriptions dispensed annually. It is further assumed that some individual practitioners may dispense from their offices. BNDD has 24,350 registrants in practitioner categories. Assuming that 25 percent of them dispense, gives 6,088 practitioner dispensers. If they are assumed to dispense once a day only on 246 days there would be 1,497,648 prescriptions dispensed by practitioners annually. The grand total for all dispensers is assumed to be 14,286,718 annually (12,501,250 + 287,820 + 1,497,648). Data is not available to estimate the number of the above estimated prescriptions that might relate to an ultimate user under 18 years of age.

Based on a study of 2010 and 2011 data by the federal Substance Abuse and Mental Health Services Administration (SAMHSA) and documented in the National Survey on Drug Use and Health (NSDUH) Report, 4.83 percent of prescription pain relievers are used for non-medical purposes in Missouri. <http://archive.samhsa.gov/data/2k12/NSDUH115/sr115-nonmedical-use-pain-relievers.htm>

Applying the 4.83 percent to the anticipated annual controlled substance prescription dispensing of 14,286,718 results in 690,049 "concern with an explanation" prescriptions annually that will need to be reviewed and potential follow-up actions taken. This is an average of 2,654 to be followed-up on each work day (52 weeks X 5 work days = 260 (690,049/260). These will be reviewed and followed-up on by the HPR I/II and investigative staff. The level of initial review will depend on the type and severity of "concern with an explanation" generated by the prescription.

ASSUMPTION (continued)

**Section 195.453.8** of the proposed legislation requires DHSS to reimburse dispensers for fees and other direct costs of transmitting the required information. Currently none of the 51 operational prescription drug monitoring plans (PDMPs) (49 states, District of Columbia, and Guam) reimburse pharmacies for transmitting data and no data exists to estimate the cost. In order to determine a cost, DHSS, based on recent discussions with the industries affected, assumes each transmission will cost \$0.25. Dispensers who will qualify for reimbursement will fall into three categories – pharmacies, ambulatory surgical centers and individual practitioners. The number of transmissions is expected to grow three percent annually and is reflected below. Each dispenser is expected to invoice quarterly for a total of 30,300 [(1,370 pharmacies + 117 ASCs + 6,088 practitioners = 7,575 dispensers) X 4] invoices in FY19 and FY20. DHSS would be required to hire staff in the DRL to process the additional invoices received from the dispensers. DHSS estimates that one Accounting Clerk can process 12,000 payment documents per year. (30,300 invoices annually /12,000 per Account clerk = 2.5 Account Clerks needed.) An Accounting Generalist I/II will be needed for every five Accounting Clerks. An Office Support Assistant will be needed for every ten Accounting Clerks. DRL will require staff to process the invoices received from dispensers.

Category	Number Statewide	FY 2020		FY 2021	
		Annual Transmissions	Reimbursement	Annual Transmissions	Reimbursement
Pharmacies	1,370	12,501,250	\$3,125,313	12,876,288	\$3,219,072
Ambulatory Surgical Centers	117	287,820	\$71,955	296,455	\$74,114
Individual Practitioners	6,088	1,497,648	\$374,412	1,542,577	\$385,644
	7,575	14,286,718	\$3,571,680	14,715,320	\$3,678,830

The following positions will be hired as of July 1, 2019 (FY20):

DRL will require the following FTE to process the 30,300 invoices and the different job categories will work together as follows to pay an invoice.

Accounting Clerk position (\$26,340 annually) duties will include:

- Determine and assign the account coding and forward to the Accounting Generalist II.

Accounting Generalist I/II position (\$36,924 annually) duties will include:

- Supervises, reviews, and approves the work of the Accounting Clerks who are processing payments.

ASSUMPTION (continued)

- Review and approve invoices and forward them to The Division of Administration.

Office Support Assistant (\$23,628 annually) duties will include:

- Open the invoice, log it into the tracking system and forward it to Account Clerk.

Based on the above assumptions, the **DRL** requests the following:

• Accounting Clerk	2.50 FTE	\$65,850
• Accounting Generalist I/II	0.50 FTE	\$18,462
• Office Support Assistant	<u>0.25 FTE</u>	<u>\$ 5,907</u>
• Total	3.25 FTE	\$90,219

DHSS, Division of Administration (DA):

In addition to the staff need by the DRL, DHSS would be required to hire staff in the DA to process the additional invoices received from the dispensers. As provided in the DRL's assumptions, each dispenser is expected to invoice quarterly for a total of 30,300 invoices per year in both FY19 and FY20. DHSS estimates that one Accounting Clerk can process 12,000 payment documents per year. An Accounting Generalist I/II will be needed for every five Accounting Clerks. An Office Support Assistant will be needed for every ten Accounting Clerks.

The following positions will be hired July 1, 2019 (FY20).

Accounting Clerk position (\$26,340 annually) duties will include:

- Reviews, audits, and enters the payment documents into the financial system.
- Verifies payment occurred.

Accounting Generalist I/II position (\$36,924 annually) duties will include:

- Supervises, reviews, and approves the work of the Accounting Clerks who are processing payments.

Office Support Assistant (\$23,628 annually) duties will include:

- Opens, sorts, and distributes mail.
- Enters payment received dates.
- Files payment documents.

Based on the above assumptions, the **DA** requests the following:

Accounting Clerk	2.50 FTE	\$65,850
Accounting Generalist I/II	0.50 FTE	\$18,462
Office Support Assistant	<u>0.25 FTE</u>	<u>\$ 5,907</u>
Total	3.25 FTE	\$90,219

ASSUMPTION (continued)

DHSS, Office of General Counsel:

One full-time attorney (Legal Counsel, \$50,000 annually) would be needed to assist in drafting emergency and proposed regulations and forms; perform legal research and provide day-to-day legal counsel to the program; and represent the department in legal actions; hired September 1, 2017 (FY18).

**Oversight** will adjust DHSS rental expenses to correspond to the estimated rate per square foot used by the Office of Administration, Division of Facilities Management, Design and Construction. In addition, Oversight assumes DHSS will not hire part-time staff (2 quarter-time (0.25 employees) and 4 half-time (0.5 employees)) and will have those duties absorbed by existing staff.

Officials from the **Office of Administration (OA), Division of Facilities Management, Design and Construction (FMDC)** state additional space in leased facilities for new staff for agencies in the Cole County area is estimated at 230 sq. ft. per FTE times \$17.50 per sq. ft., or \$4,025 annually per FTE. This cost includes building lease costs, fuel and utilities, and janitorial services. If a larger space were needed, the space was needed in other regions of the state, or newly constructed space if required, the estimated costs would be higher cost per sq. ft. (estimated at \$24.50 per sq. ft.).

Officials from the **OA, Information Technology Services Division (ITSD)/DHSS** state ITSD will assist DHSS in establishing and maintaining an application in support of the Prescription Drug Monitoring Act to monitor the 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. Each prescriber will submit to DHSS in electronic format the required information in accordance with transmission standards established by the American Society for Automation in Pharmacy, or any successor organization, and shall report data within twenty-four hours of dispensation. A paper form alternative must be available for those provided a waiver for electronic submission by DHSS. Dispensation information submitted to DHSS shall be retained by the department for no longer than 180 days from the date of submission. Infrastructure costs were calculated using the FY2017 State Data Center (SDC) Cost Allocation Plan (CAP) document, assuming use of an application built for State of MO and hosted in the SDC. Aggregated information from each prescriber and dispenser data source shall remain segregated from any other data source. Three servers to include development, test and production with 100 GB of disk storage for each are needed. Funding has been identified as "General Revenue" based on language in the bill that directs the department to establish and maintain this program "subject to appropriations".

ASSUMPTION (continued)

ITSD assumes that every new IT project/system will be bid out because all ITSD resources are at full capacity. FY18 costs are estimated to be **\$761,895** (10,104.48 contract hours X \$75/hour = \$757,836 plus expense and equipment (E&E) costs of \$4,059); FY19 costs are estimated to be **\$454,884** (4,501.44 contract hours X \$75 = \$337,608 + \$4,993 E&E + \$112,283 on-going support); and FY20 on-going costs are estimated to be **\$229,684** annually.

Officials from the from the **Office of Attorney General (AGO)** state section 195.460 authorizes the Bureau of Narcotics and Dangerous Drugs notify the appropriate professional licensing entity of violations of law or breaches of professional standards. This could result in an increase in caseload. Without knowing the number of disciplines or 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, the AGO may seek additional appropriation.

**\$195.465 - Information submission, violations and penalty provisions**

Officials from the **DHSS** state 195.465.3 could create an unknown but potentially large fiscal impact due to litigation. DHSS is unable to estimate the amount, therefore the fiscal impact is unknown.

Officials from the **Department of Corrections (DOC)** provide the following assumptions related to this proposal:

This Senate bill codifies prescription drug monitoring by repealing Chapter 195.050 RSMo and enacts twelve new sections: 195.050, 195.450, 195.453, 195.456, 195.458, 195.459, 195.460, 195.462, 195.465, 195.466, 195.468, and 195.471.

Failure to submit prescribing and dispensing information can result in a class A misdemeanor; this offense is not under the Department of Corrections (DOC) jurisdiction. SB 74 includes a class E felony for individuals, authorized or unauthorized, who unlawfully access prescribing or dispensing information or discloses said information. Current data reflect the standard impact for new offenses of a class E felony for a nonviolent offense. The department estimates that one person per year will be sentenced to prison and two will receive probation. In FY 16, class E nonviolent sentences average 3.6 years. Incarcerated offenders serve 2.3 years in prison and 1.3 years on parole, while the average time for probation is 3.0 years.

The cumulative impact on DOC, with the passage of the Prescription Drug Monitoring Act, could result in an additional 2.3 offenders incarcerated and 7.3 persons on probation in FY21. If this impact statement has changed from statements submitted in previous years, it is because



ASSUMPTION (continued)

the department's Budget and Research Section reviewed the way responses had been submitted and has developed a more precise way to calculate the impact. In previous years' responses, the full impact of recidivism for parole releases was not adequately calculated. Now we have been able to quantify the fact that some parolees are returned to prison after release and that has been added into the calculation of the impact. The total number of offenders has not changed but there is an assumption that they will spend more time back in prison rather than being on community supervision, which will increase the amount of the impacts.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender. DOC assumes a 2% annual inflation in costs.

The DOC would assume this legislation will result in the following long term costs to the General Revenue Fund:

FY18 (Year 1, 10 months)	\$8,794
FY19 (Year 2)	\$21,528
FY20 (Year 3)	\$30,133
FY21 (Year 4)	\$32,159
FY22 (Year 5)	\$32,802
FY23 (Year 6)	\$33,458
FY24 (Year 7)	\$34,127
FY25 (Year 8)	\$34,809
FY26 (Year 9)	\$35,506
FY27 (Year 10)	\$36,216

**Oversight** notes the referendum language in Section B of the proposal requires the proposal to be put to a vote of the people at the November 2018 election. If the proposal is passed, the DOC would not begin to incur additional costs until FY19. Oversight assumes FY19 costs will be similar to the costs presented above for FY18 and the DOC would be able to absorb those costs with appropriated funds for FY19. Oversight assumes subsequent year's costs will also be similar to those provided by the DOC.

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 any of the proposed new crimes relating to dispensing of pharmaceuticals monitoring information.

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

ASSUMPTION (continued)

Officials from the **OA, Division of Budget & Planning (B&P)** state section 195.465.1 states that knowingly failing to submit a report as required under this section is a violation of this chapter and such person shall be guilty of a class A misdemeanor under Section 579.084. Section 195.465.2 states that any person who unlawfully and knowingly accesses, discloses or uses prescription and dispensation information shall be guilty of a Class E felony.

The bill could increase the number of fines paid by increasing the number of individuals convicted of the crimes described above; however, since the bill is subject to voter approval there is no impact to TSR or 18(e).

**Oversight** assumes, if the proposal is passed, that the amount of fine revenue collected is unknown, but would not be significant. Potential fine revenue will not be presented for fiscal note purposes.

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.

**§195.468 - Education courses**

Officials from the DHSS state the DHSS is required to create and implement three PDMP-related education courses. DHSS is currently required to provide educational courses and information by Section 195.198, RSMo, and assumes the new requirements will be met with existing resources.

**Bill as a whole**

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.

ASSUMPTION (continued)

**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.

In addition, officials from the **SOS** state each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be \$7.8 million based on the cost of the 2012 Presidential Preference Primary.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. 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. Funding for this item is adjusted each year depending upon the election cycle with \$1.3 million historically appropriated in odd numbered fiscal years and \$100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost \$2.17 million to publish (an average of \$434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and the Secretary of State's office was appropriated \$1.19 million to publish the full text of the measures. Due to this reduced funding, the Secretary of State's office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost \$1.1 million to public (an average of \$122,000 per issue). Despite the FY 2015 reduction, the Secretary of State's office will continue to assumed, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, the SOS reserves the right to request additional funding to meet the cost of its publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

ASSUMPTION (continued)

**Oversight** notes the provisions of Section B of this proposal provide for the proposal be put to a vote of the people at the general election held in November, 2018. Therefore, Oversight assumes the SOS will not incur additional costs associated with this proposal.

In addition, Oversight will range agency costs as \$0 or the amount presented since, if the proposal does not pass, the provisions of the proposal will not take effect. In addition, costs for FY19 are presented for 6 months since election results are not certified until 30 days after the election (December 6, 2018) and it is assumed that implementation of the program would generally not begin until January, 2019.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Public Safety, Missouri State Highway Patrol**, the **Department of Social Services, Divisions of: Legal Services, MO HealthNet, and Family Support Division**, the **Joint Committee on Administrative Rules**, the **OA, Information Technology Services Division and General Services Division**, and the **Office of State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.



<u>FISCAL IMPACT -</u>				Fully
<u>Local Government</u>	FY 2018	FY 2019	FY 2020	Implemented
	(10 Mo.)	(6 Mo.)		(FY 2021)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

§§195.453-195.460 - This proposal will have an unknown direct fiscal impact on small business licensed pharmacies and dispensing practitioners as they will be required to obtain the computer hardware and software to run the program. In addition, administrative costs will be incurred to enter dispensing and transmitting data to the collection location and maintaining dispensing log information.

FISCAL DESCRIPTION

This act establishes the Prescription Drug Monitoring Act. The Department of Health and Senior Services is required to establish and maintain a program to monitor the prescribing and dispensing of all Schedule II through Schedule IV controlled substances by all licensed professionals who prescribe or dispense these substances in Missouri. The Department shall use an existing data aggregation platform through the State Data Center within the Office of Administration to establish the Prescription Drug Monitoring Program (PDMP). The provisions of this act shall be subject to appropriation and may also be funded by federal or private moneys.

The Department shall ensure the privacy and security of personal information while only aggregating necessary and appropriate information related to the prescribing or dispensing of Schedule II through Schedule IV controlled substances. The aggregated information from each prescriber and dispenser data source shall remain segregated from any other data source. All submitted prescription and dispensation information shall be kept confidential with specified exceptions. Beginning August 28, 2019, the Department shall maintain an individual's prescription and dispensation information for a maximum of 180 days, after which such information shall be deleted from the PDMP.

Most prescribers may, and all prescribers who hold themselves out to the public as pain management specialists and all dispensers shall, electronically submit to the Department information for each prescription or dispensation of a Schedule II through Schedule IV controlled substance. The Department may issue a waiver to a dispenser who is unable to submit the required information electronically. If a waiver is obtained, a dispenser can submit the required information in paper format or by other approved means. The Department shall reimburse each dispenser for the fees of transmitting the information required by this act.

FISCAL DESCRIPTION (continued)

This act delineates the duties of the prescribers, dispensers, and the Department for communicating when there is a prescription for or dispensation of a Schedule II through Schedule IV controlled substance. If the Department responds with a message that there was a concern detected and describes the nature of that concern, the prescriber or dispenser shall issue or not issue the prescription or the medication according to his or her professional judgment appropriate to the concern communicated. If the response is not timely, the prescriber or dispenser shall issue or not issue the prescription or the medication according to his or her professional judgment.

The Department shall review the prescription and 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 the prescription or 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, inform them of the potential problem, provide details, and request copies of medical records relating to 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 agency or local prosecuting attorney for action. Nothing in the PDMP database shall be the sole basis for probable cause to obtain an arrest or search warrant as part of a criminal investigation.

Any person who unlawfully and knowingly accesses or discloses prescription and dispensation monitoring information or prescribers and dispensers who knowingly fail to submit the required information or who knowingly submit incorrect information shall be subject to penalties and shall be guilty of a Class A misdemeanor. Any persons authorized to have prescription or dispensation information who knowingly disclose such information or who use it in a manner and for a purpose in violation of the act shall be guilty of a Class E felony. Additionally, this act provides a private cause of action for persons whose data has been disclosed to an unauthorized person. Recovery under this cause of action for negligent disclosure shall include liquidated damages of \$25,000 and compensatory economic and non-economic damages, attorney fees, and court costs. Punitive damages are available for intentional and malicious unauthorized disclosure. Neither the sovereign nor the official immunity doctrines shall apply to a person or department authorized to have private medical information who discloses such information to unauthorized parties.

The Department shall annually provide to the General Assembly a report as to the number of controlled substances dispensed, broken down by drug, the number of incidents of fraudulent prescriptions identified, and any other pertinent information requested by the General Assembly. The Department shall create and implement educational courses regarding the provisions of this act and, when appropriate, shall work with associations for impaired professionals to ensure the intervention, treatment, and ongoing monitoring of individuals who have been identified as being addicted to substances monitored by this act.

FISCAL DESCRIPTION (continued)

The provisions of this act shall not apply to Schedules II, III, and IV controlled substances prescribed or dispensed where the ultimate user is an individual under 18.

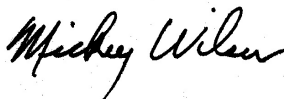
The provisions of this act shall expire on August 28, 2023.

This act contains a referendum clause.

This legislation is not federally mandated, would not duplicate any other program but would 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 Corrections  
Department of Public Safety -  
    Missouri State Highway Patrol  
Department of Social Services -  
    Family Support Division  
    Division of Legal Services  
    MO HealthNet Division  
Joint Committee on Administrative Rules  
Missouri Office of Prosecution Services  
Office of Administration -  
    Division of Budget & Planning  
    Facilities Management, Design and Construction  
    General Services/Risk Management  
    Information Technology Services Division  
Office of State Courts Administrator  
Office of Secretary of State -  
    Elections Division  
    Rules Division  
Office of State Public Defender





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Mickey Wilson, CPA  
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