

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0572-12  
Bill No.: HCS for SS for SCS for SB Nos. 70 & 128  
Subject: Health Care  
Type: Original  
Date: May 9, 2019

Bill Summary: This proposal modifies provisions relating to the administration of health care services.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	Could be greater than (\$290,126 or \$705,663)	Could be greater than (\$92,766 or \$328,611)	Could be greater than (\$93,783 or \$331,853)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Could be greater than (\$290,126 or \$705,663)</b>	<b>Could be greater than (\$92,766 or \$328,611)</b>	<b>Could be greater than (\$93,783 or \$331,853)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
State Road (0320)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 23 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Federal Funds*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Income and expenses more than \$150,000 or \$175,000 annually and net to \$0.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	0.5 or 3.2 FTE	0.5 or 3.0 FTE	0.5 or 3.0 FTE
Federal Funds	0.5 FTE	0.5 FTE	0.5 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>1.0 or 3.7 FTE</b>	<b>1.0 or 3.5 FTE</b>	<b>1.0 or 3.5 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>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §§191.1164 - 191.1168 - "Ensuring Access to High Quality Care for the Treatment of Substance Use Disorder Act"

In response to a similar proposal (HCS for HB 904), officials from the **Department of Corrections (DOC)** state the proposed legislation removes any reference to the DOC and adds drug courts and diversion programs. It is assumed that the language is intended to remove the DOC from the impact of this legislation. However, §191.1165.5 might still be interpreted to include the DOC.

For purposes of this fiscal note the DOC assumes no fiscal impact.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect the no fiscal impact DOC provided for fiscal note purposes.

Officials from the **Missouri Department of Transportation (MoDOT)** state at current utilization, MoDOT is projected to see a zero to minimal negative fiscal impact. This is based on consultant-supplied analysis examining utilization levels. If utilization increases, however, the negative fiscal impact could increase.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by MoDOT as \$0 to (Unknown) for fiscal note purposes.

Officials from the **Department of Public Safety (DPS), Missouri State Highway Patrol (MHP)** anticipate the proposal will have no fiscal impact on their organization. However, the MHP will defer to the Missouri Department of Transportation (MoDOT), Employee Benefits Section for response on behalf of the Highway Patrol. Please see MoDOT's fiscal note response for the potential fiscal impact of this proposal.

In response to a similar proposal (HCS for HB 904), officials from the **Office of State Courts Administrator (OSCA)** state the proposed legislation may result in some fiscal impact but there is no way to quantify the amount at the current time. Any significant changes will be reflected in future budget requests.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect the costs for the OSCA as \$0 to (Unknown) for fiscal note purposes.

ASSUMPTION (continued)

Officials from the **City of Kansas City (Kansas City)** state this legislation would have a negative fiscal impact on Kansas City because subsection 7 of 191.1165 requires “Drug courts or other diversion programs that provide for alternatives to jail or prison for persons with a substance use disorder shall be required to ensure all persons under their care are assessed for substance use disorders using standard diagnostic criteria by a licensed physician who actively treats patients with substance use disorders.”

The above persons in Kansas City’s drug courts are treated by licensed clinicians or substance use counselors, but generally not physicians. If someone is on MAT (Medication Assisted Treatment), then they are treated by physicians. However, many in drug court are not on MAT.

Officials from the **City of Columbia** assume this proposal will have little, if any, fiscal impact on the City of Columbia.

**Oversight** does not have any information to the contrary. Oversight will reflect costs to Local Governments as \$0 to (Unknown) for fiscal note purposes.

**Oversight** notes the **Department of Insurance, Financial Institutions and Professional Registration** state the proposal is not anticipated to have a direct fiscal impact on their organization. However, should the extent of the work be more than anticipated, the DHSS would request additional appropriation and/or FTE through the budget process. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

**Oversight** notes the **Department of Health and Senior Services**, the **Department of Mental Health** and the **Missouri Consolidated Health Care Plan** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

**Oversight** notes, in response to a similar proposal (HCS for HB 904), the **Department of Social Services** and the **Missouri Department of Conservation** each stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

ASSUMPTION (continued)

§192.007 - Education and experience qualifications for DHSS director

Officials from the **Department of Health and Senior Services (DHSS)** assume the proposal would have no fiscal impact on their organization.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact as provided by the DHSS for this section for fiscal note purposes.

§192.667 - Infection reporting

**Oversight** notes officials from the **Department of Health and Senior Services (DHSS)** state the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

**Oversight** contacted DHSS officials and asked whether the Centers for Medicare and Medicaid Services (CMS) already requires hospitals to submit health care-associated infection data. Officials indicated that although not required by CMS, most hospitals already provide the data to CMS. DHSS assumes there would be no savings for the department because they still have to collect health care-associated infection data from abortion facilities, ambulatory surgical centers (ASCs) and other facilities.

§195.080 - Exceptions to prescription limitations

Officials from the **Department of Public Safety, Missouri State Highway Patrol (DPS, MHP)** assume the proposal will have no fiscal impact on their organization. The DPS, MHP defers to the Missouri Department of Transportation (MoDOT), Employee Benefits Section for its response. Please see MoDOT's fiscal note response for the potential fiscal impact of this proposal.

**Oversight** notes the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Missouri Consolidated Health Care Plan** and the **Missouri Department of Transportation** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

**Oversight** notes, in response to similar legislation (HB 986), the **Department of Social Services** and the **Missouri Department of Conservation** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

ASSUMPTION (continued)

§197.108 - Hospital inspectors/surveyors

Officials from the **Department of Health and Senior Services (DHSS)** state §197.108 prevents an individual from being an inspector or surveyor of a hospital if they were an employee of such hospital or another hospital within its organization in the preceding two years. It also requires newly hired inspectors or surveyors to disclose the name of every hospital they, or any immediate family member, had been employed by in the last ten years. Review and updates of conflict of interest policies and procedures are within the normal ebb and flow for the Division of Regulation and Licensure. The department anticipates being able to absorb these costs.

**Oversight** does not have any information to the contrary. Therefore, Oversight assumes the DHSS will be able to implement the provisions of this proposal with existing staff and resources and will indicate no fiscal impact to the DHSS for this section for fiscal note purposes.

§198.082 - Training requirements for certified nursing assistants

Officials from the **Department of Health and Senior Services (DHSS)** state the required curriculum of the nurse aide training program is provided by CFR 483.152. DHSS is required to maintain the nurse aid registry and assessments of nurse aide training and competency evaluation programs.

This bill adds locations where a nurse aide training program can be placed (veteran's home or hospital). If these facilities establish training programs, the newly certified nurse aides will be added to the registry. These programs will increase the number of newly certified nurse aides who will be added to the registry. Since the Division of Regulation and Licensure (DRL) already maintains the certified nurse aide registry, passage of this proposal will not increase the workload of the staff in DRL.

The proposed legislation requires the promulgation of rules and regulations, which include the following duties (but not all inclusive): establish guidelines, implement strategies, make evidence-based system changes, and create policy recommendations. The Department of Health and Senior Services (DHSS), Office of General Counsel will need an additional .1 FTE for an attorney (salary of \$64,500 per year) to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility. Due to current workload being at maximum limits, these costs cannot be absorbed.

**Oversight** notes provisions of §198.082.8 provide that the DHSS may offer additional training programs and certifications to students who are already certified as nursing assistants according to regulations promulgated by the department and curriculum approved by the board.

ASSUMPTION (continued)

In response to similar legislation (SB 490), **DHSS** officials stated if they were to offer additional training programs and certifications as detailed in subsection 8, it is assumed 0.5 FTE of a Register Nurse Manager, 1.0 FTE Facility Advisory Nurse III, 0.1 FTE Attorney, and 1.0 FTE Senior Office Support Assistant would be needed. In addition, it is assumed there would be unknown Information Technology Services Division (ITSD) costs to develop and maintain an online test bank and automated test taking process. Therefore, the cost would be unknown greater than \$206,094 to the General Revenue Fund (GR) for FY 2020; unknown greater than \$210,845 to GR for FY 2021; and unknown greater than \$213,070 to GR for FY 2022.

For purposes of this fiscal note, **Oversight** will range potential costs as \$0 or the amount provided by the DHSS if they were to offer additional training programs and certifications to certified nurse aides.

**Oversight** notes officials from the **Department of Insurance, Financial Institutions and Professional Registration** stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

§§208.909, 208.918, and 208.924 - Consumer directed services

Officials from the **Department of Health and Senior Services (DHSS)** state §208.918.2(3)(a) is interpreted to mean the DHSS would promulgate a rule to define the elements and frequency of the consumer-directed division provider certification manager course, and the Missouri Medicaid Audit and Compliance (MMAC) within the Department of Social Services would maintain responsibility for provisions of the course and administering the exam. This would be similar to the current certified manager course required of agency model in-home services providers and would follow the delineation of authorities granted through executive order to MMAC, specifically related to the responsibilities of provider education and oversight. Therefore, any fiscal costs outside of rule-making would impact MMAC rather than DHSS.

Director's Office

§208.918.2(3)(a) provides that the department of health and senior services shall promulgate by rule a consumer-directed division provider certification manager course for the implementation of this section.

The proposed legislation requires the promulgation of rules and regulations, which include the following duties (but not all inclusive): establish guidelines, implement strategies, make evidence-based system changes, and create policy recommendations. The DHSS, Office of

ASSUMPTION (continued)

General Counsel will need an additional 0.1 FTE for an attorney (salary of \$64,500 per year) to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility. Due to current workload being at maximum limits, these costs cannot be absorbed.

**Oversight** assumes 0.1 FTE would not be provided fringe benefits and the state would only pay Social Security and Medicare benefits of 7.65 percent. In addition, Oversight assumes the DHSS would not need additional rental space for 0.1 FTE. However, if multiple proposals pass during the legislative session requiring additional FTE, cumulatively the effect of all proposals passed may result in the DHSS needing additional rental space.

**Oversight** assumes since DHSS states their responsibility to perform the research necessary to ensure the new guidelines and information for this proposed legislation has been properly vetted and implementation is completed quickly and with fiscal responsibility, Oversight will range the cost of the partial FTE from \$0 to DHSS' estimate less fringe benefits over 7.65% and rental space costs.

Officials from the **Department of Social Services (DSS), Missouri Medicaid Audit Compliance (MMAC)** state §208.918(2)(3)(a), RSMo, will create a fiscal impact. The section requires the creation of a consumer-directed services provider certification manager course. Currently, Missouri Medicaid Audit and Compliance (MMAC) enrolls in-home care providers. Because of this role with providers, MMAC will need to create the consumer-directed services provider certification manager course. To accomplish this task, MMAC will need one (1) FTE Medicaid Specialist.

The Department of Health and Senior Services (DHSS) interprets the statute to mean that DHSS will promulgate the rule and MMAC will provide the course.

**Oversight** notes DSS assumes it will need a total of 1 new FTE as a result of the provisions of this proposal. Based on discussions with DSS officials, it is assumed the additional FTE can be housed within current DSS locations. However, if multiple proposals pass during the legislative session requiring additional FTE, cumulatively the effect of all proposals passed may result in the DSS needing additional rental space.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect the costs provided by DSS less rental space related costs for fiscal note purposes.



ASSUMPTION (continued)

§208.935 - Interactive assessment tool/mobile assessments

Officials from the **Department of Health and Senior Services (DHSS)** state HCBS assessor staff conduct initial assessments to determine nursing home level of care (LOC) eligibility for services. In addition, assessors conduct annual reassessments on current participants to ensure continued eligibility for HCBS and aid in care plan changes. Currently, the assessments and reassessments are completed in the participant's home using a 13-page paper copy form which is manually filled out by DSDS staff and then manually entered into the Cyber Access Web Tool, resulting in a duplication of efforts. It is estimated DSDS assessor staff spend one hour of time for the manual data entry of initial assessments, as well as one hour of time for the manual data entry of annual reassessments in the Web Tool. Based on FY 2018 data, the manual data entry results in 38,002 hours of staff time per year (18,170 initial assessments + 19,832 annual reassessment = 38,002 x 1 hour of time = 38,002 hours).

This section would allow for the development of a mobile application to conduct both initial HCBS assessments as well as annual reassessments. This would equip assessor staff with tablets that could be preloaded each morning with assessments to be completed using a touch screen application rather than a hard paper copy. Staff could then upload or sync those assessments to the Cyber Access Web Tool using a secure Wi-Fi connection or "docked" at the office at the end of the day, thereby eliminating the need to manually enter the information at a desktop. Staff time will be reinvested in a variety of ways to improve integrity of the program, including: implementation of a certified assessor process which requires more stringent training guidelines and quality assurance for assessors to ensure quality and accuracy in HCBS assessments; and completion of additional annual reassessments in person. (Currently, reassessments may be completed via telephone when workload exceeds staff capacity.)

Eliminating the hard paper copy would also lead to cost savings in the amount of paper and toner used annually. The current hard paper copy assessment tool is 13 pages - seven pages front and back, resulting in 266,014 pieces of paper annually, or 532 reams (7 pages x 38,002 assessments = 266,014; 266,014 pieces of paper / 500 pieces of paper per ream = 532 reams). At a cost of \$2.77 per ream, the total savings for paper per year would be \$1,474 (532 x \$2.77 = \$1,474). It is estimated one toner cartridge can print 35,000 pieces of paper. The reduction in hard paper copies would also lead to \$1,314 in toner savings per year (266,014 pieces of paper / 35,000 pieces of paper per toner cartridge = 7.6 less cartridges used; 7.6 x \$172.90 cost per cartridge = \$1,314 savings - GR 50% / Fed 50%). Total cost savings per year are estimated to be \$2,788 (\$1,474 + \$1,314; GR 50% / Fed 50%).

ASSUMPTION (continued)

One-time development costs by the current Cyber Access contractor, Conduent, for the mobile assessment application are estimated to be \$500,000 (GR 50%/Fed 50% or could potentially be GR 10%/Fed 90% if approved by application to the Center for Medicare and Medicaid Services (CMS)), which would occur in State Fiscal Year (SFY) 2020, and annual maintenance fees of \$100,000 per year thereafter (GR 50% / Fed 50% or could potentially be GR 25%/Fed 75%). Due to the unknown of GR/Fed split at this time, the costs have been represented as a range. In addition, an initial investment of approximately \$50,750 will be required for the purchase of 125 tablets/iPads with related accessories (as quoted to by Office of Administration, Information Technology Services Department (ITSD) vendor as of 1/18/19) with an anticipated replacement cycle of every three years (GR 50% / Fed 50%).

**Oversight** notes, based on discussions with DHSS officials, it is possible the development of the mobile technology/interactive assessment tool (estimated at \$500,000) may qualify for a 90%/10% Federal/state match (\$450,000 Federal; \$50,000 GR) in FY 2020. However, the Center for Medicare and Medicaid Services (CMS) indicated DHSS would have to apply for the enhanced match. For fiscal note purposes, Oversight will range costs from the current 50/50 split to the 90/10 split.

In addition, DHSS officials are in the process of verifying a potential enhanced split for maintenance costs (\$100,000 annually beginning in FY 2021). It is possible these costs could be reimbursed at a 75%/25% Federal/state rate rather than the estimated 50%/50% split previously used. Therefore, for fiscal note purposes, Oversight will range the FY 2021 and FY 2022 maintenance costs between the 50/50 split and the 75/25 split.

§§217.930 and 221.125 - Suspension of MO HealthNet benefits when incarcerated

In response to the previous version of this proposal, officials from the **Department of Social Services (DSS)**, **MO HealthNet Division (MHD)** stated currently, when the Family Support Division (FSD) is notified that an individual has become incarcerated, MHD eligibility is closed and a new application is required upon release. The FSD has a Memorandum of Understanding (MOU) in place with the Missouri Department of Corrections (DOC) to accept applications facilitated by the DOC when an individual is temporarily released to receive inpatient treatment for twenty-four hours or longer and when an inmate is expected to be permanently released. The DOC facilitates the application process on behalf of FSD for certain inmates within its custody who would appear to meet all factors for eligibility and coverage for MHD and assists in completing the necessary forms for application forms. FSD notifies the inmate in writing the outcome when eligibility determination is complete.

ASSUMPTION (continued)

In State Fiscal Year (SFY) 2018, the FSD closed MHD eligibility for 1,124 individuals due to incarceration and determined 461 individuals eligible for MHD benefits upon release. Of the 461 individuals determined eligible upon release, 155 were due to a temporary release of at least twenty-four hours for inpatient treatment and 306 were due to permanent release.

The proposed changes do not change MHD eligibility criteria established by Centers for Medicare & Medicaid Services (CMS) and participants will still need to meet all program eligibility requirements in order to keep active and/or suspended MHD benefits. To ensure the proper eligibility is determined, the FSD completes a review when there is a change in circumstances. An individual becoming incarcerated is a change in circumstance and when a participant with active or suspended coverage no longer meets the criteria for his or her current program benefits, FSD will explore an ex parte review to determine if the participant qualifies for coverage under another MHD program. If the individual does not qualify for coverage under another MHD program, their coverage will be closed. If the individual qualifies for coverage under another MHD program, they will be moved to the proper program. Therefore, "restored" coverage refers to the activation of coverage. However, this may not be at the same level as when the individual became incarcerated due to a change in circumstances. The FSD will continue to work with the DOC and will also work with county, city, and private jails to facilitate applications and eligibility reviews of incarcerated individuals to determine eligibility.

The provisions of this bill do not affect any provisions relating to eligibility for any benefits from any program FSD administers. Therefore, there is no fiscal impact to FSD. Because FSD only determines eligibility for covered services, FSD defers to MHD regarding any services or medical expenses the participant may incur during periods of suspended coverage.

Currently, MHD has a process for persons that are incarcerated, but it involves starting and stopping their eligibility. In order to add a process to suspend eligibility, new system work would need to be created. This system work would include creating lock in segments for all incarcerated members. MHD does not pay for services while individuals are incarcerated. When they are admitted into the hospital or when they are released from prison, the lock in would have to be ended and a new lock in created for the date when/if they return to prison. Also, MHD would have to update the eligibility verification responses sent to providers to reflect the lock in to prison. This would require Medicaid Management Information System (MMIS) system modifications costing up to \$500,000 to MHD. MMIS system work would be paid 25% GR/75% Federal (\$125,000 GR/\$375,000 Federal).

Additional staff time would be needed to manually add and close the lock-ins described above. This is estimated to be approximately 4 extra hours a month. These duties could be handled by a Management Analysis Specialist II (MAS II). At approximately \$22/hr for a MAS II, the total administrative costs associated with this legislation would be \$1,056 (\$22/hr\*4 hrs\*12 months) per year. It is assumed that MHD could absorb these costs with a MAS II already on staff.

ASSUMPTION (continued)

**Oversight** contacted DSS staff regarding the \$500,000 in system modifications that would be needed. DSS assumes it would have to issue a request for proposal and get bids for the modifications that would be needed. Oversight contacted officials with the Office of Administration, Division of Purchasing and Materials Management (DPMM). DPMM officials indicated that a request for proposal would have to be submitted and bids received for these system modifications.

In addition, Oversight contacted DSS officials regarding any potential savings as a result of not having to process Medicaid applications for offenders being released from prison because benefits were suspended rather than terminated. Officials indicated the DSS would still need to go through a re-verification process to determine whether an individual would be eligible for benefits upon release. Any savings would be very small and there is no way to track the potential savings. Re-verification would still have to be performed manually for each offender being released from prison/jail to determine eligibility.

**Oversight** does not have any information to the contrary. Oversight assumes the MHD has sufficient staff and resources to absorb the additional duties required by this proposal to manually add and close the lock-ins described in their response. However, Oversight will reflect the costs for MMIS modifications provided by DSS for fiscal note purposes.

Officials from the **Department of Corrections (DOC)** deferred to the DSS for any impact related to this proposal.

**Oversight** notes this legislation appears to require the DOC to notify DSS within 20 days of an offender on Medicaid coming to prison and to notify them within 45 days of the offender leaving prison. This will be less burdensome than the current process. This bill should provide qualifying offenders access to the medical and mental health care they need immediately upon release which may increase their probability of success in the community. This bill could immensely aid re-entry purposes and continuation of care.

The bill does not specify how the DOC determines if a person is receiving benefits under MO HealthNet. Therefore, it is unclear how this practice will be implemented.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact as provided by the DOC for fiscal note purposes.

**Oversight** notes in response to similar legislation (SB 393) that the **City of Kansas City**, the **Joplin Police Department**, the **Springfield Police Department**, the **St. Louis County Police Department**, and the **St. Louis County Department of Justice Services** stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

ASSUMPTION (continued)

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other Sheriffs' Offices, Police Departments were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to [www.legislativeoversight.mo.gov](http://www.legislativeoversight.mo.gov).

**Oversight** notes this proposal could have positive benefits to the state (including savings related to not having to process MoHealthnet applications once prisoners are released from prison and the potential reduced recidivism rates if newly-released inmates have access to health insurance immediately upon release) and to certain persons recently released from confinement in a prison or jail. Oversight assumes these benefits are indirect impacts and will not reflect them in the fiscal note.

§335.175 - Telehealth by nurses program

Officials from the **Department of Health and Senior Services** and the **Department of Insurance, Financial Institutions and Professional Registration** state the proposal would not have a direct fiscal impact on their organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

In response to similar legislation (HB 226), officials from the **Department of Social Services** stated the proposal would not have a direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

**Oversight** notes the "Utilization of Telehealth by Nurses" allows an advanced practice registered nurse (APRN) providing nursing services under a collaborative practice arrangement to provide agreed-upon services outside the geographic proximity requirements of section 334.104 if the collaborating physician and APRN utilize telehealth in the care of the patient and if the services are provided in a rural area of need.

The State Board of Healing Arts and the Board of Nursing implemented an emergency rule on April 26, 2018 increasing the mileage restrictions in section 334.104 to 75 miles between collaborating professionals (physicians and APRNs) because the current regulations required APRNs to be no more than 30 or 50 miles from their collaborating physician. If the "Utilization of Telehealth by Nurses" program is allowed to expire, APRNs providing services via telehealth to patients in rural areas of need would have to meet the 75 mile proximity requirement. The provisions of section 335.175 do not require collaborating professionals to be within a certain proximity to each other if the services are provided by an APRN in a rural area of need via telehealth.

ASSUMPTION (continued)

§334.030 - Licensing requirements for nursing home administrators

Officials from the **Department of Health and Senior Services (DHSS)** assume this legislation revises the criteria necessary to qualify for an initial nursing home administrator license or a temporary emergency license. Applicants applying for licensure or temporary emergency licensure under the proposed legislation would fall under the same process, fee and review as current applicants. Changing regulations and applicant licensure reviews are within the normal ebb and flow for the Division of Regulation and Licensure so minimal time and expense will be required to conduct the requirements of the proposed legislation. The department anticipates being able to absorb these costs. However, until the FY20 budget is final, the department cannot identify specific funding sources.

**Oversight** notes that the DHSS has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for this section on the fiscal note.

§376.690 - Unanticipated out-of-network health care services

In response to the previous version of this proposal, officials from the **Department of Social Services (DSS)** assumed this legislation revises Chapter 376, which pertains to Health Maintenance Organizations (HMO). The health plans that contract with the state to provide health services in the MO HealthNet Managed Care Program are licensed as HMOs, therefore without a specific exemption, this legislation could pertain to these health plans.

This legislation revises legislation passed in FY 2018 that outlines reimbursement requirements and an arbitration system for reimbursement disputes for out-of-network providers providing "unanticipated out-of-network care" defined as services received in an in-network facility from an out-of-network provider when the patient presents with an emergency medical condition.

The legislation passed in FY 2018 was permissive and allowed for this reimbursement and arbitration system, and required an effective date of January 1, 2019. The current bill requires this reimbursement, the arbitration process and removes the January 1, 2019 effective date.

Currently, the MO HealthNet Managed Care contract requires that non-participating providers be reimbursed at 90% of the Fee-for-Service fee schedule. There are exceptions to this requirement including emergency services and "other non-participating reimbursement rates required by law or in the contract". Currently, emergency services provided by an out-of-network provider must be paid at no lower than the current MO HealthNet program rates in effect at the time of service.

ASSUMPTION (continued)

If the proposed legislation passes and the MO HealthNet Managed Care contract would need to be amended to align non-participating reimbursement with the legislation, it would be assumed that unanticipated out-of-network care would be reimbursed at a rate higher than the current FFS fee schedule reimbursement. Given the negotiation process outlined and the connection of "reasonable" reimbursement to commercial levels, the "reasonable" level of reimbursement in Medicaid is not aligned with the negotiation benchmarks. This is true whether the MCO Medicaid contract required reimbursement at 90% of Medicaid FFS for non-participating providers or if the Medicaid FFS was required. It is assumed that the Managed Care capitation rates would increase **at least \$100,000** for this change. DSS estimates the actuarial cost to evaluate this program change to the Managed Care capitation rates to be no more than \$50,000. The below splits are based on the FMAP rate with a 2.10% medical inflation rate for FY 2021 and FY 2022.

FY 2020: (\$150,000) - (GR \$59,412; FF \$90,588)  
FY 2021: (\$102,100) - (GR \$35,135; FF \$66,9655)  
FY 2022: (\$104,244.10) - (GR \$35,872; FF \$68,372)

Until the FY 2020 budget is finalized, the Department cannot identify specific appropriations.

**Oversight** notes that costs for capitation rate increases would be split 35.412% state funds and 65.588% federal funds. Costs for actuarial studies are split equally between state and federal funds.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** and the **Department of Health and Senior Services** each assume the proposal will have no fiscal impact on their respective organizations.

**Oversight** notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for this section on the fiscal note.

Bill as a whole

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.

**Oversight** assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

ASSUMPTION (continued)

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 \$5,000. 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 require additional resources.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>GENERAL REVENUE FUND</b>			
<u>Savings - DHSS</u> (§208.935) p. 9			
Reduction in paper and toner	\$1,161	\$1,394	\$1,429
<u>Costs - OSCA</u> (§191.1165) p. 3			
Increase in court costs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs - DHSS</u> (§198.082) p. 6 & 7			
Personal service	\$0 or... (\$100,576)	\$0 or... (\$115,383)	\$0 or... (\$116,537)
Fringe benefits	(\$57,972)	(\$66,687)	(\$67,039)
Equipment and expense	<u>(Greater than</u> \$47,546)	<u>(Greater than</u> \$28,775)	<u>(Greater than</u> \$29,494)
Total <u>Costs</u> - DHSS	<u>\$0 or (Greater</u> <u>than \$206,094)</u>	<u>\$0 or (Greater</u> <u>than \$210,845)</u>	<u>\$0 or (Greater</u> <u>than \$213,070)</u>
FTE Change - DHSS	0 or 2.6 FTE	0 or 2.5 FTE	0 or 2.5 FTE



<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>GENERAL REVENUE FUND</b>			
<u>Costs - DHSS (§208.918) p. 8</u>			
Personal service	\$0 or (\$5,375)	\$0	\$0
Fringe benefits	\$0 or (\$411)	\$0	\$0
Equipment and expense	<u>\$0 or (\$3,657)</u>	<u>\$0</u>	<u>\$0</u>
Total <u>Costs - DHSS</u>	<u>\$0 to (\$9,443)</u>	<u>\$0</u>	<u>\$0</u>
FTE Change - DHSS	0 or 0.1 FTE	0 FTE	0 FTE
<u>Costs - DSS (§208.918) p. 8</u>			
Personal service	(\$15,960)	(\$19,344)	(\$19,537)
Fringe benefits	(\$10,118)	(\$12,200)	(\$12,259)
Equipment and expense	<u>(\$5,422)</u>	<u>(\$2,481)</u>	<u>(\$2,543)</u>
Total <u>Costs - DSS</u>	<u>(\$31,500)</u>	<u>(\$34,025)</u>	<u>(\$34,339)</u>
FTE Change - DSS	0.5 FTE	0.5 FTE	0.5 FTE
<u>Costs - DHSS (§208.935) p. 10</u>			
Mobile access system changes	(\$50,000 or \$250,000)	(\$25,000 or \$50,000)	(\$25,000 or \$50,000)
Mobile assess tablets & accessories	<u>(\$25,375)</u>	<u>\$0</u>	<u>\$0</u>
Total <u>Costs - DHSS</u>	<u>(\$75,375 or \$275,375)</u>	<u>(\$25,000 or \$50,000)</u>	<u>(\$25,000 or \$50,000)</u>
<u>Costs - DSS (§§217.930 and 221.125)</u>			
MMIS system modifications p. 11	(\$125,000)	\$0	\$0
<u>Cost - DSS (§376.690) p. 15</u>			
Increase in Managed Care capitation rates	(\$34,412)	(\$35,135)	(\$35,873)
Actuarial Study	<u>(\$25,000)</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>Could be greater than</u> <u>(\$290,126 or</u> <u>\$705,663)</u></b>	<b><u>Could be greater than</u> <u>(\$92,766 or</u> <u>\$328,611)</u></b>	<b><u>Could be greater than</u> <u>(\$93,783 or</u> <u>\$331,853)</u></b>
Estimated Net FTE Effect on the General Revenue Fund	0.5 or 3.2 FTE	0.5 or 3.0 FTE	0.5 or 3.0 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>STATE ROAD FUND (0320)</b>			
<u>Cost - MoDOT (§191.1165) p. 3</u>			
Increase in medical plan prescription drug costs	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
<b>ESTIMATED NET EFFECT TO THE STATE ROAD FUND</b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>
<b>FEDERAL FUNDS</b>			
<u>Income - DSS (§208.918) p. 8</u>			
Program reimbursements	\$31,500	\$34,025	\$34,339
<u>Income - DHSS (§208.935) p. 10</u>			
Mobile access system changes reimbursement	\$250,000 or \$450,000	\$50,000 or \$75,000	\$50,000 or \$75,000
Mobile assess tablets & accessories	\$25,375	\$0	\$0
<u>Income - DSS (§§217.930 and 221.125)</u>			
Program reimbursements for MMIS modifications p. 11	\$375,000	\$0	\$0
<u>Income - DSS (§376.690) p. 15</u>			
Increase in Managed Care capitation rates	\$65,588	\$66,965	\$68,371
Actuarial Study	<u>\$25,000</u>	<u>\$0</u>	<u>\$0</u>
<u>Total All Income</u>	<u>\$747,088 or \$972,463</u>	<u>\$150,990 or \$175,990</u>	<u>\$152,710 or \$177,710</u>
<u>Costs - DSS (§208.918) p. 8</u>			
Personal service	(\$15,960)	(\$19,344)	(\$19,537)
Fringe benefits	(\$10,118)	(\$12,200)	(\$12,259)
Equipment and expense	<u>(\$5,422)</u>	<u>(\$2,481)</u>	<u>(\$2,543)</u>
<u>Total Costs - DSS</u>	<u>(\$31,500)</u>	<u>(\$34,025)</u>	<u>(\$34,339)</u>
FTE Change - DSS	0.5 FTE	0.5 FTE	0.5 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>FEDERAL FUNDS (continued)</b>			
<u>Costs - DHSS (§208.935) p. 10</u>			
Mobile access system changes reimbursement	(\$250,000 or \$450,000)	(\$50,000 or \$75,000)	(\$50,000 or \$75,000)
Mobile assess tablets & accessories	(\$25,375)	\$0	\$0
<u>Costs - DSS (§§217.930 and 221.125)</u>			
MMIS system modifications p. 11	(\$375,000)	\$0	\$0
<u>Costs - DSS (§376.690) p. 15</u>			
Increase in Managed Care capitation rates	(\$65,588)	(\$66,965)	(\$68,371)
Actuarial Study	<u>(\$25,000)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total All Costs</u>	<u>(\$747,088 or \$972,463)</u>	<u>(\$150,990 or \$175,990)</u>	<u>(\$152,710 or \$177,710)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
Estimated Net FTE Effect on Federal Funds	0.5 FTE	0.5 FTE	0.5 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>LOCAL GOVERNMENTS - ALL</b>			
<u>Costs - All local governments (§191.1165) p. 4</u>			
Increase in drug court costs	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - ALL</b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>

### FISCAL IMPACT - Small Business

This will directly impact small businesses that provide insurance to their employees if the cost of the insurance increases. (§191.1165)

This proposal could have a direct, negative fiscal impact on small business consumer-directed services programs as they will be required to have an annual audit or financial statement review performed by a Certified Public Accountant. (§208.918)

A fiscal impact to nursing home administrators could be expected as a result of this proposal. (§344.030)

### FISCAL DESCRIPTION

This bill establishes the "Ensuring Access to High Quality Care for the Treatment of Substance Use Disorders Act."

This bill requires that medication-assisted treatment (MAT) services shall include pharmacologic therapies. A formulary used by a health insurer or pharmacy benefits manager, or a benefit coverage in the case of medications dispensed through an opioid treatment program shall include medications specified in the proposal.

All MAT medications required for compliance must be placed on the lowest cost-sharing tier of the formulary managed by the health insurer or the pharmacy benefits manager.

MAT services shall not be subject to: (1) Annual or lifetime dollar limitations; (2) Financial requirements and quantitative treatment limitations that do not comply with the Mental Health Parity and Addition Equity Act of 2008; (3) Step therapy that conflicts with a prescribed course of treatment; and (4) Prior authorization for MAT services.

The health care benefits and MAT services required by the bill applies to all health insurance plans in the state.

Drug courts and other diversion programs that provide for alternatives to jail or prison for persons with a substance use disorder shall be required to ensure all persons under their care assessed for substance use disorders using standard diagnostic criteria by a licensed physician who actively treats patients with substance use disorders.

All health insurance companies and other payers must disclose which providers in its network provide MAT services and the level of care provided.

FISCAL DESCRIPTION (continued)

The Department of Insurance, within the Department of Insurance, Financial Institutions and Professional Registration (DIFP), must require that provider networks meet time and distance standards and minimum wait time standards for providers of MAT services. When a health insurance plan is deemed inadequate under the requirements of the bill, the health insurer must treat the health care services an enrollee receives from an out-of-network provider as if the services were provided by an in-network provider. A health insurer must provide a determination to an enrollee for covered benefits for MAT services and for urgent care services for MAT from an out-of-network provider within 24 hours. All health coverage payers must submit an annual report to the DIFP.

This proposal contains a severability clause. (§§191.1164 - 191.1168)

This act requires certified nursing assistant training programs to be offered at skilled nursing or intermediate care facility units in Missouri veterans homes and hospitals. Certified nursing assistants shall include certain employees at such units and hospitals who have completed the training and passed the certification examination. Training shall include on-the-job training at certain locations and the act repeals language pertaining to continuing in-service training. Persons who have completed the required hours of classroom instruction and clinical practicum for unlicensed assistive personnel under state regulations shall be allowed to take the certified nursing assistant examination and shall be deemed to have fulfilled the classroom and clinical standards requirements for designation as a certified nursing assistant. Finally, the Department of Health and Senior Services may offer additional training programs and certifications to students already certified as nursing assistants as specified in the act. (§198.082)

Under current law, vendors of consumer-directed services shall monitor the performance of personal care assistance service plans. This act requires the consumer to permit the vendor to comply with its quality assurance and supervision process, including bi-annual face-to-face home visits and monthly case management activities. During the home visits, the vendor shall document if the attendant was present and providing services as set forth in the plan of care and report the Department if the attendant is not present or providing services, which may result in a suspension of services to the consumer.

This act repeals language permitting the Department of Health and Senior Services to establish certain pilot projects for telephone tracking systems.

This act also requires vendors to notify consumers during orientation that falsification of personal care attendant time sheets shall be considered and reported to the Department as fraud.

ASSUMPTION (continued)

Under this act, a vendor shall submit an annual financial statement audit or annual financial statement review performed by a certified public accountant to the Department. The Department shall require the vendor to maintain a business location in compliance with any and all city, county, state, and federal requirements. Additionally, this act requires the Department to create a consumer-directed services division provider certification manager course. No state or federal funds shall be authorized or expended if the owner, primary operator, certified manager, or any direct employee of the consumer-directed services vendor is also the personal care attendant, unless such person provides services solely on a temporary basis.

Currently, a consumer's services may be discontinued if the consumer has falsified records. This act adds language to include providing false information of his or her condition, functional capacity, or level of care needs. (§§208.909, 208.918 and 208.924)

The Department shall develop an interactive assessment tool for utilization by the Division when implementing the assessment and authorization process. (§208.935)

Under this act, MO HealthNet benefits shall be suspended, rather than cancelled or terminated, for offenders entering into a correctional facility or jail if the Department of Social Services is notified of the person's entry into the correctional center or jail, the person was currently enrolled in MO HealthNet, and the person is otherwise eligible for MO HealthNet benefits but for his or her incarcerated status. Upon release from incarceration, the suspension shall end and the person shall continue to be eligible for MO HealthNet benefits until such time as he or she is otherwise ineligible.

The Department of Corrections shall notify the Department of Social Services within 20 days of receiving information that a person receiving MO HealthNet benefits is or will become an offender in a correctional center or jail and within 45 days prior to the release of such person whose benefits have been suspended under this act. City, county, and private jails shall notify the Department of Social Services within 10 days of receiving information that person receiving MO HealthNet benefits is or will become an offender in the jail. (§§217.930 and 221.1251)

This act specifies that health care professionals shall, rather than may, utilize the process outlined in statute for claims for unanticipated out-of-network care. (§376.690)

This act provides that any health benefit plan delivered, issued for delivery, continued, or renewed on or after January 1, 2020, in which a person may only enroll during an initial, open, or special enrollment period shall permit enrollment of a pregnant person at any time after the commencement of her pregnancy.

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

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 Consolidated Health Care Plan  
Missouri Department of Conservation  
Missouri Department of Transportation  
Office of State Courts Administrator  
Office of Secretary of State  
City of Columbia  
City of Kansas City  
Joplin Police Department  
Springfield Police Department  
St. Louis County Police Department  
St. Louis County Department of Justice Services



Kyle Rieman  
Director  
May 9, 2019

Ross Strobe  
Assistant Director  
May 9, 2019