

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2411-01
Bill No.: SB 486
Subject: Banks and Financial Institution; Elderly; Disabilities; Securities
Type: Original
Date: April 8, 2019

Bill Summary: This proposal modifies provisions relating to the protection of vulnerable populations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

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

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

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 2020	FY 2021	FY 2022
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume the proposal will have no fiscal impact on their organization.

In response to similar legislation HCS/HB 354 from 2019, officials from the **SOS** stated:

In calendar years 2017 and 2018, approximately 3 Respondents were penalized under Section 409.4-412 for a total amount of approximately \$400,000 and approximately 51 Respondents were penalized under Section 409.6-604 for a total amount of approximately \$1,672,000. The money collected is forwarded to the state treasury for the benefit of the county and township school funds in accordance with Article IX, Section 7 of the Missouri Constitution.

The Securities Division does not estimate an increase in the number of penalties imposed, but the penalties themselves would increase, so the gross amount would be higher.

Oversight notes the bill changes the maximum amount of civil penalties that may be assessed and that there may be an increase in the gross amount collected pursuant to Section 409.4-412 and 409.6-604. Without additional information, and since this is a maximum amount possible, Oversight will reflect a zero to unknown amount of additional penalty revenue to school districts.

In response to similar legislation HCS/HB 354 from 2019, officials from the **SOS** also assumed 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.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services (DHSS)** state:

409.615.3 (3) "The director of the department of health and senior services, after notifying the commissioner of securities, may enter an order to extend the refusal of a disbursement of transaction for the time necessary to protect the qualified adult.

Subsequent to the issuance of an order under subdivision (2) or (3) of this subsection, the agency that issued the order shall conduct a review of the circumstances every thirty days to determine if the order extension should remain in effect."

The Office of General Counsel for the DHSS currently works on processing guardianship/conservatorship to file with the courts for a public administrator/guardian to be assigned by the court to help protect citizens from financial exploitation. DHSS currently has three attorneys that work on this type of request with this being a third to a half of their workload.

It is assumed that this proposed legislation may result in additional filings, but is assumed to be part of the normal workload of what these three positions currently are responsible for. If the cases result in an injunction being filed, the case would be handled by the Attorney General's Office.

409.610 requires the department to provide information regarding a qualified adult to the reporting qualified individual or investment advisor representative upon request, subsequent to notifying the department of potential financial exploitation of the qualified adult. The Department of Health and Senior Services, Division of Senior and Disability Services, Section of Adult Protective Services, Special Investigations Unit (SIU) is responsible for investigating reports of financial exploitation.

An Adult Protective Community Worker II (average salary \$35,116) would be responsible to provide the information requested to the qualified individual. The SIU investigates on average 100 reports of financial exploitation of this nature and anticipates a 20% increase in these types of reports. The proposed language would require DHSS to provide additional information on every financial exploitation report. Providing the requested information to the qualified individual is estimated to take 30 minutes per report. Assuming 120 reports ($100 \times 0.20 = 20$; $100 + 20 = 120$), it is estimated providing this information to qualified individuals will take an additional 60 hours, or 0.03 FTE ($60 \text{ hours} \div 2,080 \text{ hours per year} = 0.03$) for total personal service cost of \$877.90 ($\$35,116 \times 0.03 \times 10/12$) for FY20 and \$1,053.48 ($\$35,116 \times 0.03$) in subsequent years.

ASSUMPTION (continued)

The department anticipates being able to absorb these costs. However, until the FY2020 budget is final, the department cannot identify specific funding sources.

Oversight does not have any information to the contrary. Oversight assumes that DHSS will be able to handle any potential increase of workload with existing staff and resources.

Officials from the **Department of Social Services, Office of State Courts Administrator, Department of Insurance, Financial Institutions and Professional Registration, and Office of Administration** each assume the proposal will have no fiscal impact on their organization.

Oversight notes that the Department of Social Services, Office of State Courts Administrator, Department of Insurance, Financial Institutions and Professional Registration, and Office of Administration-Administrative Hearing Commission 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 on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
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SCHOOL DISTRICTS

<u>Income</u> - potential increase in penalties §409.4-412 & §409.6-604	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
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ESTIMATED NET EFFECT TO THE SCHOOL DISTRICTS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act modifies provisions relating to the protection of vulnerable populations.

Under current law, only qualified individuals, as defined by law, are permitted to:

- Notify authorities of the financial exploitation of senior citizens or persons with certain disabilities; or
- Refuse disbursement of funds from the account of a senior citizen or person with a certain disability.

This act modifies the definition of "qualified individual" to include broker dealers and investment advisers in addition to persons associated with a broker-dealer or investment adviser.

Current law permits a qualified individual to notify certain persons connected with a senior citizen or person with a certain disability of suspected financial exploitation of such person. This act additionally permits an investment adviser representative to make such notifications. Additionally, the Department of Health and Senior Services and the Commissioner of Securities may provide information regarding the senior citizen or person with a certain disability to the qualified individual or investment adviser representative upon request.

Current law allows a qualified individual to refuse a request for disbursement from the account of a senior citizen or person with a certain disability if the qualified individual reasonably believes that the disbursement will result in financial exploitation of the person. This act additionally permits refusal of any request for a transaction from the account of such a person.

The act provides that in the event of a refusal of a disbursement or transaction from the account of a senior citizen or person with a certain disability, a qualified individual shall notify the Department of Health and Senior Services and the Commissioner of Securities within two business days. Current law requires notification within three business days. Additionally, the act requires the qualified individual to send a written notice, in the manner described in the act, to the qualified adult within two business days.

The act allows the Commissioner of Securities and the Director of the Department of Health and Senior Services to enter an order extending any refusal of a disbursement or transaction for the time necessary to protect the senior citizen or person with a certain disability. Subsequent to issuing such an order, the respective agency shall conduct a review every 30 days to determine if the extending order shall remain in effect.

FISCAL DESCRIPTION (continued)

The act extends immunity from any civil liability under the Senior Savings Protection Act to an investment adviser representative if he or she acts in good faith and exercises reasonable care in complying with the provisions of the act.

The act requires an investment adviser to provide access to and copies of records that are relevant to any suspected financial exploitation of a senior citizen or person with a certain disability to the Department of Health and Senior Services, the Commissioner of Securities, or law enforcement, upon request.

The Commissioner of Securities is required to make available to investment advisers and investment adviser representatives training resources on the prevention and detection of financial exploitation of senior citizens and persons with certain disabilities.

The Commissioner of Securities may impose a civil penalty up to \$25,000 for each violation of the Missouri Securities Act and may impose an additional penalty of \$15,000, in certain circumstances, if the victim was an elderly or disabled person. The act requires the Commissioner to file an action or issue an order within five years of acquiring actual knowledge of a person violating provisions of the Missouri Securities Act regarding the offer, sale, or purchase of a security. Otherwise, the Commissioner is required to file an action within 20 years.

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

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SOURCES OF INFORMATION

Department of Health and Senior Services
Office of the Secretary of State
Department of Social Services
Office of State Courts Administrator
Department of Insurance, Financial Institutions and Professional Registration
Office of Administration



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April 8, 2019

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