

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 2908-04
BILL NO.: Perfected SS for SB 576
SUBJECT: Financial Exploitation and Prevention of False Claims Against the Elderly
TYPE: Original
DATE: February 21, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	Exceeds (\$100,000)	Exceeds (\$100,000)	Exceeds (\$100,000)
Whistleblower Reward and Protection	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	Exceeds (\$100,000)	Exceeds (\$100,000)	Exceeds (\$100,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses
This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services, Department of Mental Health, and Office of Prosecution Services** assume that this proposal will not fiscally affect their agencies.

Officials from the **Office of State Courts Administrator (OSCA)** stated there may be a slight increase in the number of cases filed. The OSCA does not expect a significant impact on the workload of the judiciary.

Officials from the **Department of Revenue (DOR)** did not respond to our request for fiscal impact. **Oversight** assumes any additional responsibilities for the DOR associated with this proposal could be absorbed with existing resources.

Officials from the **Office of State Public Defender (SPD)** did not respond to our request for fiscal impact. However, for a very similar proposal from the previous session, the SPD had assumed that existing staff could provide representation for those 50 to 100 cases arising where indigent person were accused of “financial exploitation of the elderly as a class A misdemeanor or a class D felony.” The SPD had also stated that passage of more than one similar proposal would require the SPD to request increased appropriations to cover the cumulative cost of representing the indigent accused in the additional cases.

Officials from the **Department of Corrections (DOC)** did not respond to our request for fiscal impact. However, for a very similar proposal from the previous session, the DOC stated the need for additional capital improvements is not anticipated at this time. They note that the cumulative effect of various new legislation , if adopted, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational costs either through incarceration (average of \$35 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$3.50 per offender, per day)

Supervision by the DOC through probation or incarceration would result in some additional costs but it is assumed that the impact would be minimal.

ASSUMPTION (continued)

Oversight assumes offenders placed with the DOC resulting from implementation of this proposal could be absorbed with existing resources.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** did not respond to our request for fiscal impact. **Oversight** assumes the record retention requirements relating to the Missouri Act to Prevent False Claims Against the Elderly could be absorbed with existing resources. Oversight assumes the investigations of the false claims will be handled by staff from the Office of Attorney General.

Officials from the **Office of Attorney General (AGO)** did not respond to our request for fiscal impact. **Oversight** notes the Missouri Act to Prevent False Claims Against the Elderly requires the AGO to “diligently” investigate a civil violation against persons who have violated Section 33.853 regarding false claims for elderly health care. Oversight assumes this is an additional duty for the AGO and further assumes the AGO would not have sufficient personnel resources to implement the provisions of this act. Oversight, without input from the AGO, cannot determine the extent of the resources required. However, Oversight believes the AGO would require personal service and expense and equipment items totaling over \$100,000 annually. These costs were charged to the General Revenue Fund.

Officials from the **Office of State Treasurer (STO)** assume this proposal will not fiscally affect their agency.

Oversight notes the proposal creates the Whistleblower Reward and Protection Fund within the state treasury. Revenues from proceeds of an action or settlement of a claim brought under Sections 33.850 to 33.895 are to be transmitted to the DOR for deposit into the newly created fund. Expenditure, subject to appropriation, are to be allocated as follows:

- One-sixth to the AGO
- One-sixth to the Department of Public Safety - Missouri Highway Patrol
- Two-thirds of the funds are to be used for payment of awards to citizen plaintiffs, attorneys’ fees and expenses, and as otherwise in the Act.

The AGO is to direct the STO for disbursing the funds. Any remaining funds after two years are to be transferred to the General Revenue Fund.

Oversight cannot predict the amount of revenue and subsequent expenditures from this fund. As a result, Oversight will reflect unknown costs and unknown revenues, expected to offset each other, in the fiscal impact on state government funds.

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<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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GENERAL REVENUE FUND

<u>Costs - Office of Attorney General</u> Personal Service and Expense and Equipment	Exceeds <u>(\$100,000)</u>	Exceeds <u>(\$100,000)</u>	Exceeds <u>(\$100,000)</u>
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ESTIMATED EFFECT ON GENERAL REVENUE FUND	Exceeds <u>(\$100,000)</u>	Exceeds <u>(\$100,000)</u>	Exceeds <u>(\$100,000)</u>
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**WHISTLEBLOWER REWARD AND
PROTECTION FUND**

<u>Revenues</u> Proceeds From Civil Actions	Unknown	Unknown	Unknown
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<u>Costs - Office of Attorney General</u> One-Sixth of Proceeds to AGO, One- Sixth of Proceeds to Highway Patrol, and Two-Thirds to Awards, Attorney Fees, and Transfer to General Revenue Fund	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON WHISTLBLOWER REWARD AND PROTECTION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</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.

DESCRIPTION

This proposal creates the crime of financial exploitation of the elderly. A person commits this crime if the person is in a position of financial responsibility for an adult who is handicapped or 60 years of age or older and the person converts the adult's money or property without the adult's consent or by undue influence or misrepresentation. The crime is a Class A misdemeanor if the money or property converted has a value of \$250 or less, and is a Class D felony if the value is over \$250.

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DESCRIPTION

The proposal also allows a person who believes that an adult who is handicapped or 60 years of age or older has been a victim of financial exploitation to make a report to the Department of Social Services.

The proposal also creates the Missouri Act to Prevent False Claims Against the Elderly. This act requires the AGO to pursue violators of the act in a civil legal action. The act also creates the Whistleblower Reward and Protection Fund.

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 Social Services
Office of State Courts Administrator
Office of Prosecution Services
Department of Mental Health
Office of State Treasurer
Department of Corrections
Office of State Public Defender

NOT RESPONDING: Department of Revenue, Department of Public Safety - Missouri Highway Patrol, and Office of Attorney General



Jeanne Jarrett, CPA
Director
February 21, 2000