

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2848-06
Bill No.: SCS for SB 670 and 684
Subject: Elderly; Nursing and Boarding Homes; Health Care; Health Dept.; Medical Procedures and Personnel.
Type: Original
Date: February 20, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(Unknown exceeding \$519,609)	(Unknown exceeding \$573,580)	(Unknown exceeding \$583,686)
Unemployment Compensation Fund	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown exceeding \$519,609)	(Unknown exceeding \$573,580)	(Unknown exceeding \$583,686)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Federal Funds	(\$10,828)	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$10,828)	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	(Exceeds \$100,000)	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 19 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor (DOL)** stated the proposal provides contributing employers, who are currently charged for benefit payment because an individual was not discharged for misconduct connected with the work, will not be charged for benefit payment if the employer was required by law to discharge the individual, because the individual was placed on a disqualification list after being hired.

Unemployment benefits are paid from the UCTF (Unemployment Compensation Trust Fund). The UCTF is funded by all contributing employers and by employer payments for benefit charges. Although the proposal would not change the amount of benefits paid, it no longer provides the charging mechanism for replenishing the fund. The cost of benefits would reduce the balance of the UCTF, which would contribute to future rate increases to all contributing employers if the balance reaches certain levels.

The DES (Division of Employment Security) is not able to identify current claims, that meet the proposed conditions, to estimate and project the amount of impact to the UCTF. The negative impact would also depend on the weekly benefit amounts payable, number of weeks claimed and other unknown factors.

Information Services estimates the change to the benefit charging provisions would require 220 hours of computer programming to the nonmonetary and charging process in the existing system at \$49.22 per hour. This would be an estimated one-time start up cost of \$10,828, which would have a negative impact on Federal Funding. The Division assumes the cost for changing and printing notices and pamphlets would be part of the normal cost of operations.

Allowing the DSS to provide investigative information relating to the circumstances of an individual's separation, could better equip the DES when investigating misconduct connected with the work, when subject employers are not be in a position to provide the information at the time of DES's investigation. The DES is not able to predict what impact this may have.

Officials from the **Office of Prosecution Services** deferred to the Cole County Prosecuting Attorney's Office to provide a response for this proposal. Officials from the **Cole County Prosecuting Attorney's Office (CCPAO)** stated that this proposal is a complete re-write of the existing laws in this subject area. The proposal affects the stealing, assault, and abuse statutes. This

will require the local prosecuting attorney offices to re-write forms and instructions related to elder abuse. This will also require an update to the computer network being installed in the prosecutors offices statewide. Although the CCPAO could not give a precise estimate of these costs, the costs are expected to exceed \$100,000 in the first year alone.

ASSUMPTION (continued)

Officials from the **Department of Social Services (DOS) - Division of Medical Services (DMS)** provided the following assumptions regarding the proposed legislation:

Section 187.028.1. - In-home Provider Nurse Assist with Suspected Abuse/Neglect Investigation:

Department of Health and Senior Services (DOH) may authorize units for the in-home provider nurse to assist in a suspected abuse or neglect investigation. If units are authorized for the in-home provider nurse and the investigation was of a Medicaid client, the authorized units would be paid by Medicaid.

For the in-home provider nurse to be reimbursed for services performed during the investigation the following assumptions were made: (1) The duties performed by the nurse must be part of the duties outlined in the Nurse Practice Act. (2) The Centers for Medicare and Medicaid Services (CMS) must approve the services performed by the nurse during the investigation as medically necessary. Unless the CMS approved the services, federal matching funds would not be available for these services. (3) the investigational nurse visits would be in addition to the services currently being funded and any increase in services would require additional funding which would be subject to appropriation.

The Division of Senior Services (DOH) estimates that 1,201 investigations will be made on behalf of Medicaid clients with the assistance of the in-home service nurse. Each investigation will require 4 units of service at a cost of \$37.85/unit. Annual cost - \$181,831 (1,201 x (4 x \$37.85)).

For purposes of this fiscal note the in-home provider nurse is assumed to be a registered nurse licensed pursuant to chapter 335, RSMo. It is also assumed that federal matching funds would not be available. This is based on the current climate of the CMS. The current CMS management does not look favorably upon our current authorized nurse visit included in the current personal care program.

Sections 198.082 – Nurse Aide Training:

The proposed legislation will not have a fiscal impact on the DMS. The reimbursement for the training is not changed. Payment for the training is made after the nurse aide has successfully completed the training course and their name has been added to the Missouri Division of Aging Nurse Assistant Register. The DMS may reimburse the nursing facilities earlier since the training must begin within 120 days of employment instead of 90 days. Also, the on-the-job training component must be completed within 120 days of employment.

ASSUMPTION (continued)

Section 660.252 - Medicaid Participation Agreements:

This provision of the bill requires all Medicaid participation agreements with in-home service providers to include a requirement that all in-home service employees receive training on identification and prevention of elder abuse and neglect. Currently there is an administrative regulation (13 CSR 70-91.03) that requires providers to report instances of abuse and neglect. In order for the providers to do this, the providers must train their staff on elder abuse and neglect. The provider agreements can be updated to include the necessary language without a material fiscal impact to the DMS.

Section 660.401 Restructure of the Adult Day Care Program (ADHC):

This section requires the restructuring of the adult day care program to allow for a program that provides a basic level of care without the rehabilitative services and requires that the DMS provide additional reimbursement to providers for the transportation of clients to and from their homes for adult day care.

It is assumed the adult day care program referenced in the proposed legislation is the adult day program administered by the DMS.

The DMS officials stated there would be no fiscal impact from the requirement that the program be restructured to provide a basic level of care without therapy services. An Adult Day Care

Basic program was added to the Elderly and Disabled Waiver in FY 01. The Adult Day Care Basic program does not require rehabilitative services provided by a licensed professional therapist.

Funding for transportation of clients to and from their homes for adult day care programs was appropriated to the Division of Aging (now a part of the Department of Health and Senior Services) in FY 02. If the funding was to provide transportation to Medicaid eligibles the fiscal impact to the DMS is zero. However, if this funding is not used to provide transportation to Medicaid eligibles, the proposed legislation will result in a fiscal impact to the DMS.

The FY 01 average number of users of the ADHC program is 655 per month. It is projected that 76 additional persons will use the program each year. This is based on the average increase in users from FY 99 to FY 01. It is estimated that 75% of the users of the Adult Day programs will require transportation services. The projected users per month of transportation services is:

ASSUMPTION (continued)

FY 02 $655 + 76 = 731$
FY 03 $731 + 76 = 807 \times 75\% = 605$
FY 04 $807 + 76 = 883 \times 75\% = 662$
FY 05 $883 + 76 = 959 \times 75\% = 719$

The cost of the transportation is expected to be \$6.00 per day.

The average number of ADHC units (days) per month paid by the DMS is 18 units/days. This has held steady over the past few years. A unit can be up to 10 hours a day.

Total Cost:

FY 03 - $605 \times (\$6.00/\text{day} \times 18 \text{ days/month}) \times 10 \text{ months} = \$653,400$
FY 04 - $662 \times (\$6.00/\text{day} \times 18 \text{ days/month}) \times 10 \text{ months} = \$857,952$
FY 05 - $719 \times (\$6.00/\text{day} \times 18 \text{ days/month}) \times 10 \text{ months} = \$931,824$

The FFP used is 61.23% for all years.

Officials from the **Department of Corrections (DOC)** stated that currently the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. Most D felons do not serve prison time.

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 cost either through incarceration (FY 01 average of \$35.78 per inmate, per day or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY 01 average of \$3.34 per offender, per day or an annual cost of \$1,219 per offender).

Supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Department of Public Safety - Missouri Highway Patrol** assume that the investigations proposed in the legislation would be handled by local law enforcement. Therefore, no fiscal impact is anticipated.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator, Department of Mental Health and Office of Attorney General** assume the proposed legislation would not fiscally impact their organization.

Officials from the **Office of State Public Defender (SPD)** stated that for purposes of the proposed legislation, the SPD has assumed that existing staff could provide representation for those cases arising where indigent persons were charged with failure to report elder abuse, or abusing or neglecting a resident of a facility or abusing or neglecting an eligible adult not residing in a facility, or failing to disclose criminal history on an application to work in an elder facility. The SPD further assumes that existing staff could provide representation for indigent persons charged with having sexual contact with a resident or client of a facility or disclosing an unannounced inspection or diverting funds from an elderly person or falsifying delivery service documents to an elderly person. However, passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD system to request increased appropriations to cover the cumulative cost of representing indigent persons in the now more serious cases or in the new additional cases.

Officials from the **Department of Health and Senior Services (DOH)** provided the following assumptions regarding the fiscal impact of the proposed legislation:

660.058 RSMo has been repealed, eliminating mandated time tables for issuing budget allotment tables to each Area Agency on Aging and the requirement to conduct public hearings. No additional funds were received for fulfilling this mandate and no funds will be lapsed with the repeal of this section. **No fiscal impact.**

187.010 incorporates current definitions; **no fiscal impact.**

187.020 incorporates current language and there is **no impact** resulting from the new language

contained in 5 or 6.

187.024.2 In State Fiscal Year 01, of the total 7,512 complaints and facility self-reports, the DOH received 500 reports involving imminent harm. Department personnel were able to commence on-site investigations on 87% or 437 of the reported incidents within 24 hours. However, due to an insufficient number of staff, the department was unable to commence on-site investigations on 13% or 63 reported incidents within 24 hours.

To ensure DOH is able to comply with the requirement to commence on-site investigations on all reported incidents of imminent harm within 24 hours, the department will need two additional Facility Adv Nurse II positions who will conduct all phases of the on-site complaint investigation. ASSUMPTION (continued)

187.028 adapts language from existing statute and combines protection of eligible adults with the protection previously afforded in-home clients. Expands the authority of the department, prosecutor, or the Attorney General to petition the court for temporary care and protection and removal of an eligible adult not residing in a facility from his/her home. Expands the felony criminal penalty to all perpetrators of abuse or neglect. Requires written notification to all mandated reporters. The department anticipates **no significant fiscal impact**.

Subsection 1. Suspected Abuse/Neglect of In-Home Services Clients

The proposed legislation allows for the department to authorize units of in-home services provider nurse hours to assist or aid the client's case manager in the investigation of suspected abuse/neglect of in-home service clients. The division assumes for the purposes of this fiscal note, references to in-home services provider nurses are registered nurses licensed pursuant to chapter 335, RSMo.

In FY01, the division completed 12,733 investigations of hotline reports and the division estimates that there will be 14,039 investigations in FY03. In FY00, 9.9% of the hotline reports were made by in-home provider agencies. The division estimates that 9.9% (1,390) of the 14,039 hotline investigations would be completed on behalf of in-home services clients reported by the in-home services providers. The division would utilize the in-home services provider nurse for assistance with these investigations. It is estimated that the nurse visit portion would require approximately 4 hours or units.

Of the 54,038 in-home services clients, 13.58% are non Medicaid clients. Therefore, the Division of Aging estimates an additional 1,390 authorized RN units will cost approximately \$28,579 (1,390 x 0.1358 x 4 hours x \$37.85 per unit). It is assumed by the division that the balance of the costs for additional nurse visits would be for Medicaid eligible clients and should be included in the fiscal note response from the Division of Medical Services.

This subsection requires contact with the physician regarding the progress of the investigation, if

the physician is the reporter and currently field staff are required to maintain contact with the reporter. This subsection also states that the department may authorize the in-home services provider nurse to assist the case manager with the investigation and the division assumes that authorize means to reimburse for utilization of in-home provider nurses in investigations. Lastly, it requires written notification to all mandated reporters. The division anticipates **no additional significant fiscal impact.**

187.030. 1 Requires the department to promptly refer all suspected cases of elder abuse to appropriate law enforcement agencies and determine the need for adult protective services. The department assumes the prosecutors' office and law enforcement agencies will determine the fiscal ASSUMPTION (continued)

impact associated with additional referrals resulting from the language requiring the division to refer all cases of "suspected" elder abuse.

There were 12,733 investigations completed in FY01; 56.4% (7,181 cases) have investigative findings of reason to believe and 18.6% (2,368 cases) have findings in which the allegations were suspected to have occurred.

Although the previous law requires that all "substantiated cases" be referred to law enforcement or the prosecutors, current policy (Policy 1703.30) requires joint-investigation with law enforcement under certain conditions. The department assumes that the policy meets the legislative intent of the proposal and would require no change in operation.

Other circumstances which suggest that the worker may need to involve law enforcement prior to a face-to-face visit with the reported adult include: to obtain background information about subjects in the report (e.g. past law enforcement involvement, potential threat to the worker, reported adult, etc.); the report indicates an unrelated serious crime may have been committed; there is reason to believe the alleged perpetrator will flee if you are not accompanied by law enforcement; notification of law enforcement is needed to preserve the peace; it is believed that law enforcement may have relevant information about the situation (for example a past involvement in disputes, a party having been previously been jailed, etc.)" Division staff are required to "cooperate with law enforcement during the investigation as requested. The degree of staff involvement in the gathering of evidence shall be at the discretion of the law enforcement agency."

The division assumes that the policy as described meets the legislative intent of the proposal and would require no change in operation.

187.030. 2 Requires the department and law enforcement agencies to require training and cross-training of personnel regarding the proper handling of cases involving elder abuse and cooperatively develop a checklist for use by department and law enforcement personnel to follow

when investigating possible elder abuse.

The DOH assumes the intent of the sponsor is that DOH staff and law enforcement officials statewide will require training on the proper handling of cases involving elder abuse.

There will be a window of time in which the state will have to bring 800+ division of senior services (formerly division of aging, home and community services) and division of health standards licensure staff (formerly division of aging, institutional services) and approximately 29,000 law enforcement ASSUMPTION (continued)

officials (representing over 1,200 law enforcement agencies) into compliance with the training requirements of the legislation.

The law enforcement agencies will absorb the cost of training law enforcement officials. Once existing law enforcement officers receive the training, the curriculum will be incorporated into the required training for state certification in Missouri. There are 18 law enforcement training academies located throughout the state which offer the required 470 hours of training for all law enforcement officials to become certified.

The DOH will need one Social Services Manager B1 position to oversee the administrative responsibilities outlined in the bill. The administrator will work with the Highway Patrol, Sheriff's Association, Law Enforcement Training Academies, and other such agencies and associations to fulfill the requirements of joint training, developing accurate curriculum including the mandated checklist to ensure thorough investigations of elder abuse cases and under 660.252 a proficiency exam for use with in-home provider agencies for new applicants. Once the proficiency exam and the law enforcement curriculum has been developed, the administrator will act as the division liaison for law enforcement the over 1,200 law enforcement agencies to ensure that elder abuse training is accurate and revisions are made as necessary in accordance with state laws.

The department will conduct training for 800+ existing employees within the department in six to eight sessions across the state (depending on attendance by law enforcement personnel). The DOH estimates that 16 hours of training across three days will be sufficient, requiring two overnights for approximately 40% of the staff. All staff will require meal allowances and some travel reimbursement. Anticipating maximum carpool and state cars usage, mileage is based on an average of 75 miles per car per round trip. The department estimates the cost of training as follows (no cost for "trainers" included):

Total DA Staff/Personnel to be trained	800
Approximate number requiring two overnight accommodations (40%)	320
Hotel Accommodations: \$65.00 per overnight two nights (320 x \$65 x 2)	\$41,600
Meal Allowance: \$23.00 per day; two days (800 x \$23 x 2)	\$46,000

Approximate Mileage: (1 car per 3 employees = $800/3 = 267$ cars)
75 average miles round-trip per car ($267 \times 75 \times .315/\text{mile}$) \$6,308
Total Estimated Cost of Training DA Staff **\$93,908**

Oversight assumes that training would be held at various sites around the state. Oversight assumes total costs \$51,327.

ASSUMPTION (continued)

187.034 adapts language from existing statute; **no fiscal impact.**

187.050 adapts current language regarding misappropriation of funds and property and falsified service delivery documents and extends the protection from in-home services clients and to all eligible adults. Expands the mandate and authority of the division to investigate all allegations of falsification for any type of service delivery document for any eligible adult. Requires all reports be forwarded to law enforcement. Expands the mandate and authority of the division to investigate all allegations of misappropriation of funds or property perpetrated upon all eligible adults by anyone. Extends the criminal penalty from in-home agencies/employees to all perpetrators. Expands the requirement for 5-day written notice to all reporters.

The department currently refers investigations of allegations of misappropriation/falsification of service delivery documents, other than for in-home services, to the appropriate regulatory agencies for investigation. The department assumes the current policy meets the basic intent of the legislation and therefore, there will be **no fiscal impact**. If this assumption is not correct and the department is to investigate all types of allegations regarding falsification of service delivery documents to any eligible adult, then there will be an **indeterminate fiscal impact**.

187.080 adapts current language and contains some new language governing the EDL process. The DOH anticipates **no significant fiscal impact**.

187.084 adapts language from current statute governing requirements for criminal background checks. The DOH anticipates **no fiscal impact**.

187.087 adapts language regarding confidentiality of reports. New subsection requires that copies of reports resulting in employees being placed on the disqualification list be provided to the Division of

Employment Security within the Department of Labor and Industrial Relations upon request. The division believes current resources are sufficient to allow for provision of copies of reports to the Division of Employment Security. The DOH anticipates **no significant fiscal impact**.

187.102 requires department staff to cooperate with the departments of Mental Health and Social Services in the investigation of reports of elder abuse when appropriate. This is currently

required by division policy. The department anticipates **no significant fiscal impact.**

191.900 & 191.910 relate to the authority of the Attorney General. **No fiscal impact.**

198.012 incorporates 187.020 into an existing statute regarding exempt facilities. **No fiscal impact.**

ASSUMPTION (continued)

198.027 relates to the authority of the director in court cases. **No fiscal impact.**

198.029, 198.030, 198.032, 198.033, 198.067, 198.068, 198.082, 198.090, 198.526, 198.532, 344.050, 565.200 relate to regulation of facilities; the DOH anticipates **no fiscal impact.**

660.030 relates to reporting requirements and authorizes the department to have access to all financial, medical and mental health records regardless of the facility or entity in possession of the records. The DOH anticipates **no fiscal impact.**

660.050 updating references to the new chapter 187. **No fiscal impact.**

660.051 The DOH assumes the proposed legislation requires all statements of deficiencies, identical to those posted in the facility, to be available on the DOH Internet website for certified and state- licensed skilled nursing facilities, intermediate care facilities, and residential care facility I's and II's (over 1,250). The legislation also requires the DOH website to provide a link to the federal website that provides a summary of facility surveys conducted over the last three years, and information on how to obtain copies of completed facility surveys. Additionally, the website shall include a notation on any survey which is in dispute.

The DOH will need one Computer Information Technologist II to ensure information provided on the website is current; provide technical support and maintenance of the portion of the DOH website related to the 1,250+ providers and their related statements of deficiencies; and be responsible for systems management, configuration, administration and troubleshooting activities, including support of state-level communication protocols and database functions.

660.058 was repealed; **No fiscal impact.**

660.083 The department assumes current staff in our Compliance Unit will be sufficient to document and forward to the appropriate units within the department a listing of those facilities whose compliance history should be considered when issuing or renewing a license. It is estimated that the fiscal impact of this requirement would not be significant; however, depending on the criteria that are established for not licensing a facility, a future request for additional FTE may be needed.

660.252 requires Medicaid Participation Agreements contain a requirement for training on elder abuse. Although the impact of this requirement will be calculated by the Department of Social Services, Division of Medical Services, current training requirements are mandated for all contracted in-home services provider agencies in accordance with 13 CSR 15-7.021 (19).

ASSUMPTION (continued)

Included in required training topics is recognizing and reporting abuse, neglect, and/or exploitation of the elderly or disabled clients. The cost of staff providing training upon request as an in-service for provider agencies will be absorbed by the department. **The department anticipates no significant fiscal impact.**

660.401. 1. requires the development of an Adult Day Care program that does not have a rehabilitative component. The Division of Medical Services (DMS) has amended the Aged and Disabled Waiver to include an adult day health care program which provides a basic level of adult day care services without the rehabilitative component provided by a licensed professional therapist. Increases in available options does not impact the Division of Senior Services' workload.

The department assumes that any fiscal impact for the Division of Health Standards & Licensure would be related to an increase in the number of facilities being inspected as adult day care providers. Some rules and regulations related to the adult day care program are federal and may not fall within the division's scope. Therefore, depending on the number of long-term care facilities seeking admission into the adult day care service program, DOH may request additional FTE in the future.

660.401. 2. requires separate reimbursement for Adult Day Care transportation. The division anticipates the cost for Medicaid reimbursement for transportation will be submitted by the Department of Social Services, Division of Medical Services. Additionally, the Division of Senior Services will need funds to reimburse centers providing transportation to spenddown Medicaid recipients during periods of Medicaid ineligibility to allow clients to attend day care without interruption in services. According to DMS, there are currently 655 clients per month utilizing the adult day health care program with an anticipated growth of 76 clients (based on average user growth from FY99 - FY01). It is estimated 75% of the adult day care clients will require transportation assistance. DMS estimates transportation costs average \$6.00 per participant and is using the following overall cost computations for all recipients:

FY03 $655+76(\text{FY02 inflation})+76(\text{FY03 inflation})=807 \times 75\%=605 \times \$6.00 \text{ per day} \times 18 \text{ days per month} \times 10 \text{ months} =\$653,400.$

FY04 $807+76=883 \times 75\%=662 \times \$6.00 \text{ per day} \times 18 \text{ days per month} \times 12 \text{ months} =\$857,952.$

FY05 $883+76=959 \times 75\%=719 \times \$6.00 \text{ per day} \times 18 \text{ days per month} \times 12 \text{ months} =\$931,824.$

Based on historical data from prior years expenditures, approximately 97% of the total day care program costs are funded through DMS and 3% by the department. DMS reimbursed approximately \$4,735,000 for adult day health care in FY 2000 and the department expended

approximately \$142,000. Based upon the above estimated costs for DMS transportation for adult day care programs ASSUMPTION (continued)

the department will require \$20,208 (3%) in FY2003; \$26,535 in FY2004 and \$28,819 in FY2005 to pay costs of the transportation services to spenddown clients during periods of Medicaid ineligibility.

Section 1 relates to facility Certificate of Need; the department anticipates **no fiscal impact**.

The following information relates to how the legislation would affect program activities in the Center for Health Information Management and Epidemiology (CHIME).

This will require one Research Analyst III. 1/2 FTE for the Bureau of Health Resources Statistics - This person will pull required data from Oracle Database within the Health Licensure Unit. Analyze data using SAS or other computer language, output required data into a web usable form and reformat data to be published on the Department's web site. The other 1/2 FTE be required to review death certificates for potential elderly abuse / neglect. The analyst will also be required to develop SAS computer programs to produce reports detailing the deaths of persons over the age of 65.

The DOH officials also stated the proposed legislation may have a fiscal impact on local law enforcement agencies and prosecutors as they may need additional staff and/or resources for the review, investigation and prosecution of elder abuse, neglect, misappropriation of funds or property and falsification of service delivery documents cases referred to their agencies or offices for action by the DOH.

Officials from the **Office of the Secretary of State (SOS)** state this bill makes major changes to protect the elderly from abuse and neglect. The Department of Health and Senior Services will promulgate rules to implement this bill. These rules will be published in both the *Missouri Register* and *Code of State Regulations*. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services could require as many as 44 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$2,706 [(44 pp x \$27) + (66 pp x \$23)].

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.

Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Costs - Department of Corrections</u>			
Additional Commitments or Parole Supervision	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
Total <u>Costs</u> - Department of Corrections	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
<u>Costs - Department of Social Services - Division of Medical Services</u>			
Adult Day Care Transportation Services	\$0 to (\$253,323)	\$0 to (\$332,628)	\$0 to (\$361,268)
In-Home Nurse Assist with Investigations	(\$151,528)	(\$189,104)	(\$196,668)
Provider Agreements	<u>(Unknown less than \$40,000)</u>	<u>(Unknown less than \$40,000)</u>	<u>(Unknown less than \$40,000)</u>
Total <u>Cost</u> - Department of Social Services	<u>(Unknown exceeding \$151,528)</u>	<u>(Unknown exceeding \$189,104)</u>	<u>(Unknown exceeding \$196,668)</u>
<u>Costs - Department of Health and Senior Services</u>			
Personal Service Costs (5 FTE)	(\$167,690)	(\$206,258)	(\$211,414)
Fringe Benefits	(\$60,385)	(\$74,274)	(\$76,130)
Equipment and Expense	(\$77,025)	(\$68,598)	(\$70,655)
Training Costs	(\$42,773)	(\$8,811)	\$0
Adult Day Care Transportation Services	(\$20,208)	(\$26,535)	(\$28,819)
Total <u>Cost</u> - Department of Health and Senior Services	<u>(\$368,081)</u>	<u>(\$384,476)</u>	<u>(\$387,018)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown exceeding \$519,609)</u>	<u>(Unknown exceeding \$573,580)</u>	<u>(Unknown exceeding \$583,686)</u>

**UNEMPLOYMENT
 COMPENSATION TRUST FUND**

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Costs - Department of Labor</u>			
Lost Benefit Charges	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
Total <u>Costs</u> - Department of Labor	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FEDERAL FUNDS

<u>Income - Department of Social Services</u>			
Medical Assistance Payments for ADHC	\$0 to \$400,077	\$0 to \$525,324	\$0 to \$570,556
Medical Assistance Payment for Provider Agreements	<u>Unknown less than \$60,000</u>	<u>Unknown less than \$60,000</u>	<u>Unknown less than \$60,000</u>
Total <u>Income</u> - Department of Social Services	<u>\$0 to exceeding \$400,077</u>	<u>\$0 to exceeding \$525,324</u>	<u>\$0 to exceeding \$570,556</u>

<u>Costs - Department of Labor</u>			
Equipment and Expense - Computer Programming	<u>(\$10,828)</u>	<u>\$0</u>	<u>\$0</u>
Total <u>Costs</u> - Department of Labor	<u>(\$10,828)</u>	<u>\$0</u>	<u>\$0</u>

<u>Costs - Department of Social Services - Division of Medical Services</u>			
Adult Day Care Transportation Costs	(\$0 to \$400,077)	(\$0 to \$525,324)	(\$0 to \$570,556)
Provider Agreements	<u>(Unknown less than \$60,000)</u>	<u>(Unknown less than \$60,000)</u>	<u>(Unknown less than \$60,000)</u>
Total <u>Cost</u> - Department of Social Services	<u>(\$0 to exceeding \$400,077)</u>	<u>(\$0 to exceeding \$525,324)</u>	<u>(\$0 to exceeding \$570,556)</u>

<u>Costs - Department of Labor</u>			
Equipment and Expense - Computer Programming	<u>(\$10,828)</u>	<u>\$0</u>	<u>\$0</u>
Total <u>Costs</u> - Department of Labor	<u>(\$10,828)</u>	<u>\$0</u>	<u>\$0</u>

NET ESTIMATED EFFECT ON FEDERAL FUNDS	<u>(\$10,828)</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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LOCAL GOVERNMENT FUNDS

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Costs - Prosecuting Attorneys</u>			
Upgrades to Computer Systems, Forms and Instruction Changes	<u>(Exceeds \$100,000)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED EFFECT ON LOCAL GOVERNMENT FUNDS	<u>(Exceeds \$100,000)</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

A fiscal impact to small business would be expected due to the requirements of this bill regarding the implementation of background checks on employees and training that must be provided to employees within 120 days of employment. The potential cost to small businesses is unknown.

DESCRIPTION

Definitions for elder care terms are modified. Certain persons are required to report suspected abuse or neglect of facility residents. Anyone failing to make a report or filing a false report is guilty of a Class A misdemeanor. Immunity is given to reporters, unless they act negligently, recklessly, or in bad faith. A facility administrator must contact the coroner immediately upon the death of a resident.

If a report is made about a long-term care resident, certain information must be included in the report. Within 24 hours, the Department of Health and Senior Services must initiate an investigation and notify the resident's family. If a report involves imminent harm, the Department must start an on-site investigation within 24 hours. If an investigation indicates possible abuse or neglect, the resident may be removed from the facility. Reports are confidential, but information may be released to certain persons. Within 5 working days, the person making the report must be notified of its progress. Harassment of reporters is prohibited. Any person who knowingly abuses or neglects a resident of a facility is guilty of a Class D felony and will be placed on the employee disqualification list. Section 187.028 contains provisions similar to Section 187.024, but for eligible adults not residing in a facility and in-home services clients.

The Department must investigate reports by using the procedures established in Sections 660.250 to 660.295 and must refer all suspected cases to law enforcement. The Department and law enforcement must require elder abuse training and must develop an investigation checklist. Immunity from liability is provided to reporters, unless they act in bad faith.

DESCRIPTION (continued)

Section 187.050 contains provisions similar to 187.024, but for the misappropriation of property or falsification of documents of an in-home services client. Any in-home services provider or

employee who performs such acts will be guilty of a Class A misdemeanor.

Any person placed on the employee disqualification list (EDL) must be notified in writing with thirty days to respond or appeal. Certain persons will be automatically listed on the EDL, such as those who intentionally or negligently inflict serious physical injury or death to another. No person on the EDL may be employed by anyone receiving the list. Persons listed on the EDL may request removal once every twelve months.

Prior to hiring an employee, providers must request a criminal background check and must check the EDL. Failure to disclose will result in a Class A misdemeanor. Failure by a provider to investigate will result in civil penalties. All reports of abuse or neglect will be kept confidential, with specific exceptions.

The Departments of Health and Senior Services, Social Services, and Mental Health must work cooperatively in the investigation of abuse and neglect, when appropriate.

The term "financial" is included in the definition of abuse and redefines "medical assistance" as any federal health care program.

The Attorney General, with approval of the court, is allowed to investigate violations of Sections 191.900 - 191.910 or Sections 187.020 - 187.028. The provisions of Section 187.020 are included as non-applicable to certain entities, such as hospitals.

The Director of the Department can compel evidence in inspections or investigations. Failure to comply will be grounds for refusal, revocation, or suspension of a license.

Written notice of facility noncompliance must be copied to the Attorney General. Every residential care facility I or II must meet or exceed federal requirements for posting deficiencies. Sections 187.020 - 187.050 are included in the requirement for confidentiality of resident records.

One annual state licensure inspection is required of every facility. One or more additional inspections will be required if a facility receives or fails to correct certain deficiencies. A second inspection may be done if a facility changes ownership. This does not prohibit the Department from making other inspections, as necessary.

DESCRIPTION (continued)

The Attorney General is included in provisions allowing a civil action against a noncomplying facility. It is the intention of the General Assembly to impose civil penalties in cases of more than one

violation or a pattern of violations.

A requirement is added that skilled or intermediate care nursing assistants must complete training within 120 days of employment. The Department must approve all training.

Currently, Section 198.526 deals with facility inspection procedures. New language provides for immediate termination and a Class A misdemeanor for any Division employee who discloses an inspection time to a facility.

Providers or employees of SNFs or Alzheimer's units are prohibited from sexual contact with residents. Anyone having sexual contact is guilty of a Class B misdemeanor, with subsequent violations being a Class A misdemeanor. Anyone having sexual intercourse is guilty of a Class D felony, with subsequent violations being a Class C felony. This section does not apply to persons married to a resident.

A new section provides that no legal privilege, with the exception of attorney/client, will excuse a person's failure to report or cooperate with the investigation of abuse or neglect. All Department personnel shall have access to victim's records, unless otherwise prohibited by federal law.

The Department must provide certain long term care information over its website, including facility survey results. The Department must consider a facility's compliance history when issuing or renewing a license.

All Medicaid participation agreements must include a requirement for abuse and neglect training and access to long term care facilities by the state ombudsman.

The Department must restructure the adult day care program to allow for a basic level of care without rehabilitative services. The Department should authorize additional reimbursement for transportation, as well.

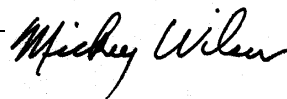
This legislation is not federally mandated and would not duplicate any other program.

SOURCES OF INFORMATION

Office of Prosecution Services
Cole County Prosecuting Attorney's Office
Department of Labor and Industrial Relations

HW-C:LR:OD (12/01)

Office of State Courts Administrator
Department of Public Safety - Missouri Highway Patrol
Department of Social Services
Department of Corrections
Office of Attorney General
Department of Mental Health
Office of State Public Defender
Department of Health and Senior Services
Office of Secretary of State



Mickey Wilson, CPA
Acting Director
February 20, 2002