

**COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION**

FISCAL NOTE

L.R. No.: 0569-32
Bill No.: Truly Agreed To and Finally Passed HCS for SS for SS for SCS for SB 556 and 311
Subject: Crimes and Punishment; Elderly; Health Care; Health Department; Licenses-Miscellaneous; Medicaid; Mental Health Department; Nurses; Nursing and Boarding Homes; Social Services Department
Type: Original
Date: May 30, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue*	(More than \$1,074,400)	(More than \$1,245,697)	(More than \$1,283,754)
Total Estimated Net Effect on General Revenue Fund	(More than \$1,074,400)	(More than \$1,245,697)	(More than \$1,283,754)

*Subject to appropriations. Language in the proposal indicates "shall".

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Elderly Home-Delivered Meals Trust Fund	Unknown	Unknown	Unknown
Nursing Facility Quality of Care Fund	Unknown	Unknown	Unknown
Total Estimated Net Effect on Other State Funds	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 19 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Federal *	\$0	\$0	\$0
Unemployment Compensation Administration Fund	(\$13,782)	\$0	\$0
Unemployment Compensation Trust Fund	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown greater than \$113,782)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)

***Income and expenses which are unknown but less than approximately \$1,100,000 annually would net to \$0.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Prosecution Services**, the **Department of Mental Health**, the **Department of Economic Development**, and the **State Public Defender** state this proposal would not fiscally impact their agencies.

Officials from the **Office of Attorney General** assume that any potential costs arising from this proposal could be absorbed with existing resources.

Officials from the **Department of Health and Senior Services (DOH)** state Section 198.067

increases the dollar amount of penalties for certain violations. This section states 75% of the

ASSUMPTION (continued)

penalties collected shall be deposited into the Nursing Care Quality of Care Fund and 25% of the

penalties shall be deposited into the Elderly Home-Delivered Meals Trust Fund. However an estimate of the possible increase in state revenue is indeterminate since facility compliance with minimum standards is solely dependent on the operator's actions.

The DOH states section 198.600 requires the DOH to establish and monitor a Uniform Data Management Pilot Program at a minimum of fifty selected facilities and provide a report to the General Assembly. The DOH assumes no cost for the pilot project until the General Assembly appropriates funds for this purpose. **Oversight** assumes the DOH will have some costs related to the "Uniform Data Management Pilot Program" established in Section 198.600. **Oversight** assumes this fiscal impact to General Revenue is unknown and exceeds \$100,000.

The DOH states Section 660.300.15 requires the DOH to develop a tool and conduct "Safe at Home Evaluations" for each client to determine the client's physical, mental and environmental capacity and to ensure that the appropriate professionals are involved in the care plan. The process mandates a nurse authorize each plan of care and allows in-home services provider nurse to conduct the assessment and develop the plan of care. The DOH will access expertise, services or programs of other departments and agencies on a case-by-case basis including referral to mental health professionals for evaluation and treatment.

Current policy and regulation require the DOH Social Service Worker to conduct the assessment and develop the care plan in conjunction with the client and the provider. DOH nurses are required to review all care plans that include advanced care components or for clients who have complex medical care needs. Under the proposed legislation, current staffing levels would be insufficient to allow DOH nurses to fulfill this mandate; therefore, the DOH will utilize in-home service provider nurses to conduct assessments and establish the plan of care. If DOH nurses are required to fulfill this mandate during times of non-appropriation of program funds, additional staff will be required. The DOH assumes no fiscal impact until the General Assembly appropriates funding for the additional nurse visits.

The DOH states Section 660.300.16 requires the DOH to authorize a minimum of two nurse visits per year for the purpose of assessing the client and the client's plan of services; upon notification of needed changes, the DOH shall make a client evaluation. The DOH assumes no fiscal impact until the General Assembly appropriates funding for the additional nurse visits.

The DOH states Section 660.300.18 requires reimbursement subject to appropriations, for authorized nurse visits pursuant to sections 660.250-660.300. The DOH assumes that it is not the intent of the proposed legislation that the DOH nurses complete visits required pursuant to ASSUMPTION (continued)

sections 660.250-660.300 as a result of non-appropriation of nurse visit funding. Current nurse staffing levels within the DOH are inadequate to fulfill the requirements of this legislation and if so required due to non-appropriation of program funds, additional staff would be required.

Oversight assumes the DOH will have additional responsibilities related to Section 660.300. Clients' casemanagers and the DOH nurse are required to investigate and report in additional situations. However, Section 660.300.18 states nurse visits authorized sections 660.250 to 660.300 are subject to appropriation. Since the language in these sections state "shall", **Oversight** will present costs as unknown, but exceeding \$100,000.

Section 660.300.12 states if a supervising in-home services provider willfully and knowingly failed to report known abuse by an employee to the DOH, the provider may be subject to administrative penalties of \$1,000 per violation to be deposited into General Revenue.

Oversight assumes these violations will be minimal and has not presented a fiscal impact.

Officials from the **Secretary of State Office (SOS)** state this proposal modifies various provisions relating to the protection of the elderly and would result in the Department of Health and Senior Services promulgating more rules. These rules would be published in the *Missouri Register* and the *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 38 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the Code because cost statements, fiscal notes and the like are not repeated in Code. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23. The estimated cost of a page in the Code is \$27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn. The SOS estimates the cost for FY 04 only to be \$2,337.

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.

Officials from the **Department of Social Services - Division of Family Services (DFS)** state if

the DFS is unable to make a determination regarding Medicaid eligibility within sixty days of the submission of a completed application, then the patient would be Medicaid eligible until the application is approved or denied. The DFS currently tracks Medicaid applications but does not ASSUMPTION (continued)

have a system in place to track when a Medicaid application is complete. The DFS anticipates that a completed application is one in which all documentation necessary to complete an eligibility determination has been provided to the agency, including but not limited to medical, financial, and resource verification.

DFS estimates the fiscal impact of this proposal is unknown, less than \$100,000 for staff to make system design changes to track completed applications.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** state that Section 198.428 requires DFS to make a determination regarding Medicaid eligibility within 60 days of completed application. If DFS is unable to make a determination in this timeframe, the applicant would be Medicaid eligible until approved or denied. DMS states the average nursing home rate is \$97.34 a day. If a client is found ineligible one day beyond 60 days, DMS would pay a minimum of 61 days of nursing care. If this happened only 17 times, DMS estimates the total fiscal impact to be unknown but greater than \$100,000 ($\$97.34 \times 17 \text{ people} \times 61 \text{ days} = \$100,942$). The DMS states all funds would be General Revenue.

Section 660.300.2 - In-home provider nurse assist with suspected abuse/neglect investigation

The DMS states the Department of Health and Senior Services 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 be subject to appropriation.

The DOH estimates that 1,186 investigations will be made on behalf of Medicaid clients with the

assistance of the in-home service nurse. Each investigation would require 4 units of service at a cost of \$37.85/unit or an annual cost of \$179,560 (1,186 x \$37.85).

DMS states for the purposes of this fiscal note, the in-home nurse is assumed to be a registered ASSUMPTION (continued)

nurse licensed pursuant to Missouri statute. It is also assumed that federal matching funds would not be available. DMS states the current CMS management does not look favorably upon the DOS's current authorized nurse visit included in the current personal care program.

The DMS states since the proposal does not mandate that this change take effect until appropriated, there would not be an immediate impact on the DMS. DMS assumes no impact would occur until the General Assembly appropriates specific funds for this.

Section 660.300.15 - In-home provider nurse may do assessment of the client's condition

DMS states this section creates a new evaluation (Safe at Home Evaluation) of in-home service clients and the possibility that a provider nurse may conduct this evaluation and develop a plan of care. Currently, the DOH-Division of Senior Services (DSS) conducts the assessment of potential in-home clients. Any changes required by this language to the assessment would be performed by the DOH. A fiscal impact to the DMS is expected if the provider's nurse is authorized to perform the initial assessment and establish a plan service/care. DMS states the cost is included in Section 660.330.16. DMS assumes the evaluation visit would be included as one of the proposed two annual visits.

The DMS states since the proposal does not mandate that this change take effect until appropriated, there would not be an immediate impact on the DMS. DMS assumes no impact would occur until the General Assembly appropriates specific funds for this.

Section 660.300.16 - Two authorized nurse visits annually

DMS states currently a personal care client may receive nurse visits for evaluation and assessment if the DOH-DSS determines it is necessary. The individual may also receive nurse visits if they are in need of assistance with filling insulin syringes, setting up oral medications, monitoring skin conditions, diabetic nail care, or other nursing services as determined by a case manager. Currently, 21,590 adult personal care recipients do not receive a nurse visit. Individuals are re-evaluated on at least a yearly basis. The DOH provided the recipient count.

Annual Cost: 21,590 x \$37.85 (current Medicaid nurse visit rate) x 2 = \$1,634,363

The cost for FY 04 would be \$1,361,969 (10 months); for FY 05 the cost is \$1,707,909, and for FY 06 the cost is \$1,784,765. This assumes a 4.5% annual inflation rate for growth and increased rates. The federal match used for all years is 61.47%.

ASSUMPTION (continued)

DMS assumed that only the annual nursing visits required by this proposal are beyond the current cost limitation (nursing facility cost cap). The current limitation of 26 nurse visits in a six-month period remains as stated in regulation.

The DMS states since the proposal does not mandate that this change take effect until appropriated, there would not be an immediate impact on the DMS. DMS assumes no impact would occur until the General Assembly appropriates specific funds for this.

Oversight assumes because of the additional nursing visits required in 660.300, the DOS would have an additional costs. Since the language in these sections state "shall", **Oversight** will present costs as presented in a similar fiscal note.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** state that the MHP's Criminal Records and Identification Division is currently conducting background searches for employment purposes, thus the impact would be minimal.

MHP's Division of Drug and Crime Control assume that most investigations would be handled by local law enforcement agencies. If the MHP would conduct the investigations, the MHP would have an unknown fiscal impact.

Oversight assumes there will be unknown costs greater than \$100,000 to local law enforcement agencies.

Officials from the **Department of Labor and Industrial Relations (DOL)** assume 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.

DOL states unemployment benefits are paid from the Unemployment Compensation Trust Fund (UCTF). 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 DOL states this could have a potential impact of over \$100,000 to the UCTF, however, the exact amount is unknown.

The Division of Employment Security (DES) is not able to identify current claims (that meet the ASSUMPTION (continued)

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 Systems estimates the change to the benefit charging provisions would require 280 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 \$13,782, which would have a negative impact on Federal Funding. The DES assumes the cost for changing and printing notices and pamphlets would be part of the normal cost of operations.

The DES states that allowing the Department of Health and Senior Services 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 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 **Department of Corrections (DOC)** state that the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. The DOC received no incarceration cases in the past two years as per existing law, and only one probation supervision case was opened. 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 (FY 02 average of \$35.52 per inmate, per day or an annual cost of \$12,965 per inmate) or through supervision provided by the Board of Probation and Parole (FY 02 average of \$3.10 per offender, per day or an annual cost of \$1,132 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the DOC. 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, the DOC assumes the impact would be less than \$100,000 for the DOC.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
---	---------------------	---------	---------

GENERAL REVENUE

Costs - Department of Health and Senior Services

Pilot Project (Section 198.600)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)
Additional nurse visits (Section 660.300)*	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)
<u>Total Costs - Department of Health and Senior Services</u>	(Greater than \$200,000)	(Greater than \$200,000)	(Greater than \$200,000)

*Subject to appropriations. Language in the proposal indicates "shall".

Costs - Department of Social Services - Division of Family Services

Programming costs (Section 198.428)	(Unknown less than \$50,000)	(Unknown less than \$50,000)	(Unknown less than \$50,000)
-------------------------------------	------------------------------	------------------------------	------------------------------

Costs - Department of Social Services - Division of Medical Services

Program costs (Section 198.428)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)
Additional nurse visits (Section 660.300.2)**	(\$149,633)	(\$187,640)	(\$196,084)
Additional nurse visits (Section 660.300.15 and 660.300.16)**	(\$524,767)	(\$658,057)	(\$687,670)

<u>Total Costs - Department of Social Services - Division of Medical Services</u>	(Greater than \$774,400)	(Greater than \$945,697)	(Greater than \$983,754)
---	--------------------------	--------------------------	--------------------------

**Subject to appropriations. Language in the proposal indicates "shall".

<u>Costs - Department of Corrections</u>			
Incarceration and probations costs	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(More than \$1,074,400)</u>	<u>(More than \$1,245,697)</u>	<u>(More than \$1,283,754)</u>
--	---------------------------------------	---------------------------------------	---------------------------------------

ELDERLY HOME-DELIVERED MEALS TRUST

<u>Income - Department of Health and Senior Services</u>			
Income from violations	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

ESTIMATED NET EFFECT ON ELDERLY HOME-DELIVERED MEALS TRUST	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
---	-----------------------	-----------------------	-----------------------

NURSING FACILITY QUALITY OF CARE

<u>Income - Department of Health and Senior Services</u>			
Income from violations	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

ESTIMATED NET EFFECT ON NURSING FACILITY QUALITY OF CARE	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
---	-----------------------	-----------------------	-----------------------

FEDERALIncome - Department of Social Services -
Division of Family Services

Federal Assistance	Unknown less than \$50,000	Unknown less than \$50,000	Unknown less than \$50,000
Federal Assistance	<u>\$837,202</u>	<u>\$1,049,852</u>	<u>\$1,097,095</u>
<u>Total Income - Department of Social Services - Division of Family Services</u>	Unknown less than \$887,202	Unknown less than \$1,099,852	Unknown less than \$1,147,095

Costs - Department of Social Services -
Division of Family Services

Programming costs	<u>(Unknown less than \$50,000)</u>	<u>(Unknown less than \$50,000)</u>	<u>(Unknown less than \$50,000)</u>
-------------------	---	---	---

Costs - Department of Social Services -
Division of Medical Services

Additional nurse visits per 660.300.15 and 660.300.16	(\$837,202)	(\$1,049,852)	(\$1,097,095)
--	-------------	---------------	---------------

**ESTIMATED NET EFFECT ON
FEDERAL FUNDS****\$0****\$0****\$0****UNEMPLOYMENT
COMPENSATION
ADMINISTRATION FUND**Cost - Department of Labor and Industrial
Relations

CAM:LR:OD (12/02)

Programming costs	<u>(\$13,782)</u>	<u>\$0</u>	<u>\$0</u>
-------------------	-------------------	------------	------------

**ESTIMATED NET EFFECT ON
UNEMPLOYMENT
COMPENSATION FUND**

<u>(\$13,782)</u>	<u>\$0</u>	<u>\$0</u>
-------------------	------------	------------

**UNEMPLOYMENT
COMPENSATION TRUST FUND**

Costs - Department of Labor and
Industrial Relations

<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>
-------------------------------------	-------------------------------------	-------------------------------------

**ESTIMATED NET EFFECT ON
UNEMPLOYMENT
COMPENSATION TRUST FUND**

<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>	<u>(Unknown over \$100,000)</u>
-------------------------------------	-------------------------------------	-------------------------------------

FISCAL IMPACT - Local Government

FY 2004
(10 Mo.)

FY 2005

FY 2006

LOCAL GOVERNMENTS

Costs - Local law enforcement

Training costs and additional enforcement
costs

(Unknown
greater than
\$100,000)

(Unknown
greater than
\$100,000)

(Unknown
greater than
\$100,000)

**ESTIMATED NET EFFECT ON
LOCAL LAW ENFORCEMENT**

(Unknown
greater than
\$100,000)

(Unknown
greater than
\$100,000)

(Unknown
greater than
\$100,000)

FISCAL IMPACT - Small Business

Administrative penalties may affect small businesses.

DESCRIPTION

CAM:LR:OD (12/02)

This proposal modifies various provisions relating to the protection of the elderly.

The Department of Health and Senior Services (DOH) may request the past 5 years compliance history for out-of-state home health agency applicants (Section 197.416).

The DOH shall provide through their Internet website the most recent survey of every home health agency and any deficiencies. If a survey is in dispute, the survey will not be posted until the agency's response has been resolved. The website shall also include the agency's proposed plan of correction and a link to the federal web site (Section 197.478).

DESCRIPTION (continued)

The DOH must maintain an employee disqualification. "Abuse" and "neglect" have the same meaning as specified in Section 198.006. "Knowingly" and "recklessly" have been defined. (Section 197.500).

Any person operating a residential care facility I, residential care facility II, an intermediate care facility, or a skilled nursing facility without a license where abuse or neglect of a resident or occupant of the premises has occurred is guilty of a class D felony (Section 198.015)

The staff of a facility shall prepare copies of records requested by the DOH within two business days or as determined by the DOH. The DOH cannot remove or disassemble any medical record during an inspection of the facility, but may observe the photocopying or make their own copies if the facility lacks the technology. The DOH may request from an out-of-state applicant the compliance history of all out-of-state facilities owned by the applicant from the previous five years (Section 198.022).

If a facility submits satisfactory documentation that a deficiency contained within the written report has been corrected, an on-site reinspection may not be required (Section 198.027).

Every residential care facility I or II, intermediate care facility, and skilled nursing facility must post the most recent inspection report in a conspicuous place. Operators may redact any individually identifiable health information prior to posting an inspection report (Section 198.030).

The DOH must maintain a hot-line caller log for the reporting of suspected abuse and neglect in long-term care facilities. The DOH must attempt to obtain the name and address of any person making a report after obtaining relevant information regarding the alleged abuse or neglect. The identity of the person making the report will remain confidential (Section 198.032).

The DOH may revoke a license if the operator refused to allow the DOH access to residents and employees, the operator or anyone involved in the operation has ever knowingly acted or knowingly failed to perform any duty that materially or adversely affected the health, safety, welfare, or property of a resident, or the operator or anyone involved in the operation has ever been convicted of a felony relating to the management of a facility. The DOH shall not have access to information that is not necessary to carry out the duties of Section 198.006 to Section 198.186, RSMo (Section 198.036).

DESCRIPTION (continued)

The DOH shall impose sanctions that are commensurate with the seriousness of the violation found to have occurred. For Class I, II, and III violations, the remedies specified in this section may be imposed (Section 198.066).

The maximum amount of civil penalties shall be twenty-five thousand dollars. The range of fines are: Class I: \$1,000 to \$10,000; Class II: \$250 to \$1,000; and Class III: \$50 to \$250. The civil monetary penalties shall be distributed as follows: 25% to the Elderly Home-Delivered Meals Trust Fund, 25% to the Nursing Facility Quality Care Fund to be used for the sole purpose of supporting quality care improvement projects within the Office of State Ombudsman for Long-Term Care Facility Residents, and 50% to the Nursing Facility Quality Care Fund to assist qualified nursing facilities to improve the quality of service to the residents (Section 198.067).

The DOH shall not impose a fine for self-reporting Class II and Class III violations so long as the violation is corrected within a specified amount of time and there is no reoccurrence of the particular violation for twelve months. Civil penalties shall remain the sole liability of the operator and cannot be sold, transferred, or assigned to any successor (Section 198.067).

Certain mandated reporters must immediately report suspected abuse and neglect of eligible adults or persons sixty years of age and older to the DOH. Any administrator of a facility that knowingly conceals an act of abuse or neglect that results in death or serious physical injury will be guilty of a Class D felony. The terms "knowingly" and "recklessly" are defined (Section 198.070).

The staff of a residential care facility I and II, intermediate care facility, or a skilled nursing facility shall attempt to contact the resident's immediate family or responsible party and shall contact the attending physician and shall notify the local coroner or medical examiner

immediately upon the death of a resident and prior to transferring the deceased to a funeral home (Section 198.071).

Nursing assistants must complete the training program within four months of employment. The training program can be offered at any facility licensed or approved by the DOH (Section 198.082).

Participants of the demonstration project to provide treatment to persons with Alzheimer's disease or Alzheimer's related dementia may be allowed to accommodate a family member or other caregiver from residing with the resident (Section 198.086).

The DOH must promulgate rules for the determination, selection or removal of qualified

DESCRIPTION (continued)

receivers. The DOH must also maintain a list of qualified receivers that have submitted a written request for a receivership of a facility (Section 198.105).

Nursing home districts are prohibited from evicting, harassing, or retaliating against a resident or employee because of any reported violations made by the resident, resident's family, or employee of the facility. Residents and employees of a facility may obtain information regarding their rights and protections from the DOH's telephone referral and information line (Section 198.301).

In the event the Division of Family Services is unable to make a Medicaid eligibility determination within 60 days of application, the patient shall be Medicaid eligible until the application is approved or denied (Section 198.428).

The DOH shall inspect residential care facilities I (Section 198.525).

The DOH may reduce the frequency of inspections to once a year if the facility is found to be in substantial compliance. Substantial compliance will be based on previous inspection reports, the facility's history of compliance, the number and severity of complaints received about the facility, and the facility having no changes in ownership, operator, or Director of Nursing. Any employee of the DOH who knowingly discloses the time of an unannounced inspection will be guilty of a Class A misdemeanor and will be immediately terminated (Section 198.526).

The DOH shall provide through their website the most recent survey of every long-term care facility and any deficiencies. If a survey is in dispute, the survey will not be posted until the facility's response has been reviewed. The website shall also include the facility's proposed plan

of correction and a link to the federal web site (Section 198.528).

The Department of Health shall establish a "Uniform Data Management Pilot Program" at a minimum of least 50 facilities to improve patient care and retention of nursing facility staff (Section 198.600).

The DOH must promptly contact appropriate law enforcement agencies if they are unable to substantiate that abuse occurred due to the lack of cooperation of the operator and employees of the facility (Section 565.186).

Requires certain caregivers to immediately report a person sixty years of age or older that may have been subjected to abuse or neglect (Section 565.188).

Financial exploitation of an elderly or disabled person is a Class A misdemeanor if the property

DESCRIPTION (continued)

is less than \$50, a Class D felony if the property is \$50 but less than \$500, a Class C felony if the property is \$500 but less than \$1000, and a Class B felony if the property is \$1,000 or more (Section 570.145).

Any person who purposely files a false report of abuse or neglect will be guilty of a Class A misdemeanor. Any person having a prior conviction of filing a false report of abuse or neglect will be guilty of a Class D felony (Section 630.165).

If the DOH is conducting an investigation but is unable to access an eligible adult, the court may grant a warrant or other order to enter the premises, require production of information, and enjoin interference with an investigation (Section 660.270).

Certain mandated reporters must immediately report suspected abuse and neglect of an in-home services client to the DOH. If the client's physician makes a report of suspected abuse or neglect, the DOH shall continuously contact the physician regarding the progress of the investigation. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the DOH, the client's case manager and the DOH nurse shall be notified. If an in-home service provider fails to report abuse or neglect, the DOH may impose a fine of \$1,000 per violation against the provider. The terms "knowingly" and "recklessly" are defined for placement on the employee disqualification list. Authorized nurse visits shall be at least twice annually. Subject to appropriations, all nurse visits shall be reimbursed to the in-home services provider agency (Section 660.300).

Once a report is received, the Department of Social Services shall immediately begin an investigation and contact the appropriate law enforcement agencies (Section 660.305).

The DOH is required to give written notice of any proposed action, such as suspension, probation, and termination, to in-home service providers. In-home service providers must be given administrative appeal rights (Section 660.310).

Any employer, who must discharge an employee that was placed on the employee disqualification list after the date of hire, will not be charged with unemployment insurance benefits (Section 660.315).

Prior to any contact with patients and residents, criminal background checks must be conducted on all full-time, part-time, or temporary employees that are hired or contracted for an employment agency. Providers must request a nationwide criminal FBI background check for out-of-state applicants who have not resided in Missouri for five consecutive years and have no

DESCRIPTION (continued)

employment history with a licensed Missouri facility during that five year period. The total cost to the provider of any background check shall not exceed five dollars and shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide criminal background check shall be subject to appropriations (Section 660.317).

Upon request, the DOH must provide the Division of Employment Security with copies of the investigative reports that led to the placement of the employee on the employee disqualification list (Section 660.320).

The DOH is prohibited from disclosing any personally identifiable medical, social, personal, or financial records of an eligible adult, except by court order. The DOH, the Department of Mental Health, the Department of Social Services, the Attorney General, appropriate law enforcement, and the eligible adult can access these records for examination or copying without a court order (Section 660.321).

The regional ombudsman coordinators and ombudsmen volunteers shall have the authority to report instances of abuse and neglect to the ombudsmen hotline operated by the Department (Section 660.603).

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

L.R. No. 0569-32

Bill No. Truly Agreed To and Finally Passed HCS for SS for SS for SCS for SB 556 and 311

Page 18 of 19

May 30, 2003

SOURCES OF INFORMATION

Department of Health and Senior Services

Department of Social Services

Division of Medical Services

Division of Family Services

Secretary of State

Department of Labor and Industrial Relations

Office of Prosecution Services

Department of Economic Development

Office of Attorney General

State Public Defender

Department of Mental Health

Department of Public Safety -

Missouri State Highway Patrol

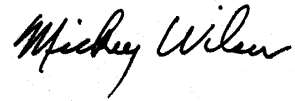
Department of Corrections

L.R. No. 0569-32

Bill No. Truly Agreed To and Finally Passed HCS for SS for SS for SCS for SB 556 and 311

Page 19 of 19

May 30, 2003

A handwritten signature in black ink, reading "Mickey Wilson". The signature is written in a cursive, flowing style.

MICKEY WILSON, CPA
DIRECTOR
MAY 30, 2003