

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3666-06  
Bill No.: HCS for SCS for SB 1160  
Subject: Drugs and Controlled Substances; Health Care; Health Care Professionals; Health Department; Hospitals; Pharmacy  
Type: Original  
Date: April 20, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Federal*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Social Services (DOS)** state the DOS currently has a rule in place to allow the return of unused long term care prescription drugs from any source. There is a Board of Pharmacy rule, based on a FDA Advisory letter, that precludes any significant returns. DOS states Section 1 does not designate what is to happen with the drugs when they are returned to the pharmacy. Therefore, DOS states the Board of Pharmacy rule on return and reuse of drugs would apply. In addition, DOS states Section 1 conflicts with Federal law on controlled substances which explicitly prohibits this type of return. DOS states Federal law requires that controlled substances be destroyed in the presence of two licensed health care professionals.

DOS estimates the maximum amount of potential returns from nursing homes at \$8,175,000 (\$3,169,447 GR), if the Board of Pharmacy rule was not in place. However, due to the Board of Pharmacy rule, DMS estimates the fiscal impact of \$0.

**Oversight** assumes the DOS could have some drug savings if Medicaid consumers utilize the prescription drug repository program. **Oversight** assumes any possible savings would be reflected in future budget requests.

ASSUMPTION (continued)

Officials from the **Department of Economic Development-Division of Professional Registration (DED-PR)** assume there would be no fiscal impact as a result of this proposal.

Officials from the **Department of Health and Senior Services (DOH)** state there would be no fiscal impact as a result of this proposal.

**Oversight** assumes this proposal would require the DOH to take on additional responsibilities. Since the DOH states there would be no fiscal impact, **Oversight** assumes the DOH plans to absorb any additional costs.

Officials from the **Secretary of State Office (SOS)** state this proposal assigns the Department of Health and Senior Services administration with help from the Department of Economic Development, a drug repository program. The Department of Health and Senior Services is charged with creating rules to administer this program, as well as establish fees therefor. These rules would be published in both the *Missouri Register* and the *Code of State Regulations*. These rules could require as many as 48 pages in the *Code of State Regulations* and half again as many pages in the *Missouri Register* 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 Register is \$23 and 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 the 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 05 to be \$2,952.

**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 Corrections (DOC)** state they 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.

DOC states 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 (FY03 average of \$38.10 per inmate, per day or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of

ASSUMPTION (continued)

\$3.15 per offender, per day or an annual cost of \$1,150 per offender).

The following factors contribute to DOC's minimal assumption: (1) DOC assumes the narrow scope of the crime will not encompass a large number of offenders, (2) The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence, and (3) The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another. DOC states supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

DOC notes that if DOC's current contracted offender health-care provider met the eligibility requirements as a clinic outlined within this bill, they could recycle drugs in blister packs that were unopened. Currently these unused drugs are destroyed. The potential exists for a positive but unknown fiscal impact and it is assumed the same would exist statewide.

Officials from the **Department of Mental Health (DMH)** assume this proposal would not fiscally impact the DMH or its providers. Medications utilized in the mental health industry are generally maintenance medications which the client uses for the rest of their lives. This makes the chance of receiving donations of such medications unlikely. While such medications could be donated in the event of a death, the frequency of this happening would not make a difference in the medication costs to the DMH or its providers. Additionally, the DMH is unlikely to participate in such a program due to facility accreditation issues which may affect Medicare/Medicaid certification and continued receipt of disproportionate share dollars (which currently amount to nearly \$126 million per year).

However, DMH states if the donation of such prescription medications associated with mental health are more significant than anticipated and participation by local mental health providers would occur there would likely be a cost associated with such participation. Local departmental mental health providers (administrative agents), do not currently have the capacity to store, inspect, inventory and dispense such medications in a manner which would meet federal and state laws on such drugs. It could require expansion of secure storage space, as well as increased manpower to inspect, inventory and dispense any donated drugs. **Oversight** assumes the DMH could have some drug savings (that exceed drug administrative costs) if DMH consumers utilize this program to a great extent. **Oversight** assumes any possible savings would be reflected in future budget requests.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Small Business</u>			

Pharmacies that are small business would be required to store these products. Additional staff may be necessary to maintain the inventory and documentation. Additional staff may be needed to review donated medications to determine if the medications are appropriate and acceptable for donation.

#### DESCRIPTION

This proposal establishes the Prescription Drug Repository Program within the Department of Health and Senior Services by January 1, 2005. The program shall accept and dispense donated prescription drugs to eligible Missouri residents. Only sealed and unopened prescription drugs will be accepted.

Any person or entity may donate prescription drugs at any pharmacy, hospital, or non-profit clinic that elects to participate in the program. These participating pharmacies, hospitals, and non-profit clinics shall dispense the donated prescription drugs to eligible Missouri residents in compliance with federal and state drug laws. Persons receiving the donated prescription drugs may be charged a handling fee, which shall not exceed two hundred percent of the Medicaid dispensing fee. Any individual who knowingly resells any donated prescription drugs shall be guilty of a class D felony. Any person or entity who acts in good faith relating to the provisions of this act shall not be subject to civil or criminal liability. However, a person or entity is not immunized from claims for injury, death, or loss of property arising from the donation, acceptance or dispensing of prescription drugs deposited through this program which are defective or which do not comply with the prescription pursuant to which the drugs are dispensed.

The Director of the Department of Health and Senior Services, in consultation with the State Board of Pharmacy, must promulgate rules to implement this program.

CAM:LR:OD (12/02)

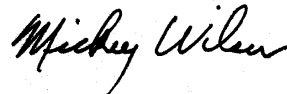
DESCRIPTION (continued)

A residential care facility I/II, intermediate care facility, or skilled nursing facility shall return any unused prescription drugs issued to a resident who is enrolled in the Medicaid program to the pharmacy which dispenses those drugs.

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 Corrections  
Department of Health and Senior Services  
Secretary of State  
Department of Economic Development -  
Division of Professional Registration  
Department of Mental Health  
Department of Social Services



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Director  
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