

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5322-01
Bill No.: SB 1258
Subject: Medicaid, Social Services Department; Disabilities; Health Care; Health, Public; Health Department; Elderly; Children and Minors
Type: Original
Date: March 31, 2008

Bill Summary: This legislation modifies provisions relating to protections for senior citizens, disabled persons and children.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	\$0	Unknown	Unknown
Total Estimated Net Effect on General Revenue Fund	\$0	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
State School Moneys Fund*	\$0	\$0	\$0
Criminal Records Fund	\$3,234,000	\$501,600	\$501,600
Total Estimated Net Effect on Other State Funds	\$3,234,000	\$501,600	\$501,600

*Unknown savings and losses would net to \$0.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on FTE	0	0	0

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	Unknown	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health** assume the proposal would have no fiscal impact on their agency.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could 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 **Office of the State Public Defender (SPD)** state for purposes of the proposal, the SPD cannot assume existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crimes regarding elder and disabled citizen abuse.

While the number of new cases may be too few or uncertain to request additional funding for this specific proposal, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all of the SPD cases.

Oversight assumes the SPD could absorb the additional caseload that may result from this proposal within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget request.

ASSUMPTION (continued)

Officials from the **Department of Social Services (DSS)** assume since the Children's Division requires background screenings for all child care providers that receive reimbursement from DSS, there will be no change in policy or procedure. Therefore, there is no fiscal impact to DSS. The other provisions of the proposal regarding protection of the elderly and the disabled have been in other proposals and none have had any fiscal impact to the DSS.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the Department of Revenue to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Oversight notes that local school districts would see an increase in fine revenue as a result of this proposal. As stated by DESE, this fine revenue would be a deduction the next year for some of the school districts. Oversight assumes an unknown amount of revenue would be realized each year by school districts and a corresponding decrease in school funding from the state the following year. Oversight assumes the fine revenue will fluctuate from year to year, therefore, the net fiscal impact to local school districts from FY 2009 on could be Unknown to (Unknown).

Officials from the **Department of Corrections (DOC)** state the proposal includes penalty provision up through a class B felony. The fiscal impact for DOC per year is unknown, less than \$100,000.

Officials from the **Department of Health and Senior Services** assume the changes in section 192.2178 will require hospitals, long-term care facilities, and adult day care providers to obtain background screening information that includes a check of the Department of Mental Health Employee Disqualification Registry.

Long-term care, adult day care, and hospitals are not required to use the Family Care Safety Registry for background screenings and tend not to do so. DHSS believes the vast majority of

ASSUMPTION (continued)

the repeat background screenings required by Section 192.2178 will be requested through the Department of Public Safety. DHSS does not anticipate the bill having a fiscal impact on the Division of Regulation and Licensure.

The assumption is made that any increase in revenue to the DPS, Missouri State Highway Patrol will be reflected in the Department of Public Safety's fiscal note response.

In response to a similar proposal from this year (HB 1516), officials from the **Missouri State Highway Patrol** state the following:

According to the Department of Health and Senior Services, the estimated number of persons that are currently employed and will be subject to this new legislation is approximately 228,000. Approximately 100,000 of these 228,000 employees have had background checks performed pursuant to other statutory requirements and will not be part of the initial check process stipulated in this proposed legislation (228,000 - 100,000 = 128,000).

Additionally, it is assumed there will be a 10% turnover rate for these healthcare workers; therefore, 22,800 additional background checks will be needed annually. Each background check costs \$20.00 for the state fingerprint check and an additional \$19.25 for the nationwide federal check. Of which, the state pays the FBI \$17.25.

Estimated Revenue for FY09:

128,000 healthcare workers x \$39.25 (state/federal background check)	\$ 5,024,000
19,000 (22,800/12 x 10 months) healthcare workers x \$39.25	\$ 745,750
FY09 Revenue Total:	\$ 5,769,750

Estimated Expense for FY09:

128,000 healthcare workers x \$17.25 (federal background check charge)	\$ 2,208,000
19,000 (22,800/12 x 10 months) healthcare workers x \$17.25	\$ 327,750
FY09 Expense Total:	\$ 2,535,750

Estimated Revenue for FY10 & FY11:

22,800 employees x \$39.25	\$ 894,900
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Estimated Expense for FY10 & FY11:

22,800 employees x 17.25	\$ 393,300
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ASSUMPTION (continued)

Officials from the **Office of Prosecution Services (OPS)** have not responded to Oversight's request for fiscal information.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Savings</u> - Department of Elementary and Secondary Education*			
Reduced appropriations to the State School Moneys Fund (from deduction of fine revenue from previous year)	\$0	Unknown	Unknown
<u>Costs</u> - Department of Corrections Incarceration/Probation Costs*			
	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>Unknown</u>	<u>Unknown</u>

*Oversight assumes savings will exceed costs.

STATE SCHOOL MONEYS FUND

<u>Savings</u> - Department of Elementary and Secondary Education			
Reduced distributions to local school districts	\$0	Unknown	Unknown
<u>Losses</u> - Department of Elementary and Secondary Education			
Reduced appropriations from General Revenue Fund	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON STATE SCHOOL MONEYS FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

CRIMINAL RECORDS FUND

Income - Department of Public

Safety/Missouri State Highway Patrol Revenue from Background Checks	\$5,769,750	\$894,900	\$894,900
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Costs - Department of Public

Safety/Missouri State Highway Patrol Background Checks Costs	<u>(\$2,535,750)</u>	<u>(\$393,300)</u>	<u>(\$393,300)</u>
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ESTIMATED NET EFFECT ON CRIMINAL RECORDS FUND	<u>\$3,234,000</u>	<u>\$501,600</u>	<u>\$501,600</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
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POLITICAL SUBDIVISIONS

Revenues - School Districts

Income from fines	Unknown	Unknown	Unknown
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Losses - School Districts

Reduced distributions from State School Moneys Fund	\$0	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>Unknown</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

The proposed legislation modifies provisions relating to protections for elderly persons and the disabled receiving care for in-home services, adult day care, or personal care assistance.

Under this legislation, the necessary statutory changes are made due to the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services. SECTION 192.2000

The provisions on the elder abuse and neglect awareness program are modified to include information on financial exploitation of the elderly. SECTION 192.925

The definition of "protective services" is modified to mean a service provided by the state or other governmental or private organizations or individuals which are necessary for the eligible adult to meet his or her essential human needs. SECTION 2003

Immunity from civil and criminal liability is granted for any person making a report of abuse or neglect to the Department of Health and Senior Services unless the person acts negligently, recklessly, in bad faith, or with malicious purpose. SECTIONS 192.2103.5 AND 192.2150.11

This legislation modifies the mandatory reporting and abuse and neglect provisions affecting elderly persons and the disabled receiving in-home care and adult-day care services to include personal care services. A new definition of "in-home services client" includes children in the Healthy Children and Youth (HCY) Program and "principal" of a facility to include a provider, officer, director, owner, partner or other person with primary management or supervisory responsibilities. SECTION 192.2150.1

Mandatory reporters must also now immediately report to the Department of Health and Senior Services if there is reasonable cause to believe that abuse or neglect occurred, that misappropriation of property or moneys of a patient, resident, in-home services client, or consumer or the falsification of any documents verifying service delivery of in-home services or consumer-directed services has occurred. SECTION 192.2150.2.

If a report is made by the patient's, in-home services client's, consumer's or resident's physician, the department shall provide information regarding the progress of the investigation to the physician upon request. SECTION 192.2150.4

Upon receipt of a report that indicates an imminent danger to the health, safety, or welfare of a patient, resident, in-home services client or consumer or a substantial probability that death or serious physical injury will result, the department shall make a prompt and thorough

FISCAL DESCRIPTION (continued)

investigation. The Department shall initiate all other investigations as soon as practicable. Notification of an investigation and whether such report was substantiated shall also be made to the patient's, resident's, in-home services client's or consumer's legal representative as soon as possible. SECTION 192.2150.6

When information gained from an investigation indicates a crime has occurred, the Department shall report such information to appropriate law enforcement authorities. SECTION 192.2150.7

This legislation requires the Department to keep the names of individuals submitting abuse and falsification of document reports confidential unless the complainant agrees to the disclosure of his or her name, the Department of Health and Senior Services finds that disclosure is necessary to prevent further abuse, neglect or misappropriations of property or moneys, the name of the complainant is lawfully subpoenaed, the release of a name is required by the Administrative Hearing Commission, or the release of a name is requested by the Department of Social Services for the purpose of licensure under Chapter 210, RSMo. SECTION 192.2150.9

This legislation protects patients and patients' family members from eviction, harassment, or retaliation due to the filing of a report of a violation or suspected violation of the laws or regulations of this legislation. SECTION 192.2150.13

Any potential consumer or in-home services client whose services are funded by MO HealthNet shall be screened to determine if they are included on the Missouri sexual offender registry and the provider shall be notified if a sexual offender was identified. SECTION 192.2150.15

Any person who fails to make the required abuse, neglect, misappropriation, or falsification of documents report shall be guilty of a Class A misdemeanor. Any provider who knowingly conceals abuse or neglect that results in the death or serious injury of the patient shall be guilty of a Class D felony. In addition, any provider who willfully and knowingly fails to report known abuse by an employee may be subject to a one thousand dollar per abuse violation administrative penalty by the Department of Health and Senior Services. SECTION 192.2153

Any person who puts to his or her own use or the use of the provider or otherwise diverts from the in-home services client's use of any property or funds is guilty of a Class A misdemeanor. Any provider, principal in the operation of a provider or employee of a provider who knowingly conceals any act of abuse or neglect that results in death or serious physical injury is guilty of a Class D felony. SECTION 192.2153.2 and 3

FISCAL DESCRIPTION (continued)

This legislation provides that the Department shall make available the employee disqualification list upon request to recognized schools of nursing or other health care professionals. Such information shall not be disclosed to unauthorized entities. SECTION 192.2175.11

For any persons hired on or after August 28, 2008, a provider shall not hire any person with a disqualifying criminal history unless such person has received a good cause waiver of the disqualifying criminal history. For any persons employed as of August 28, 2008, a provider shall request a criminal background check by January 1, 2009, and shall not knowingly retain any such person with a disqualifying criminal history after March 1, 2009, unless such person has submitted a completed good cause waiver application prior to January 1, 2009. If the good cause waiver is denied, the provider shall not continue to retain such person after the provider is notified of the denial of the good cause waiver. For any persons hired on or after August 28, 2008, a provider is not guilty of a class A misdemeanor if the provider knowingly hires or retains any person who is a registered sex offender or who has been convicted of an offense which would require such registry. SECTION 192.2178.8 and 9

This legislation prohibits any state or federal funding for personal care assistance services if the attendant is on the employee disqualification list; is a registered sexual offender; or has a disqualifying criminal history, unless a good cause waiver is obtained. SECTION 208.904.4

The definition of "child care provider" is modified to include in-home services providers currently under contract with the Department of Health and Senior Services. In addition a definition for "related personal care" is added as care provided for a person with a physical or medical disability by an adult relative as it relates to the Family Care Safety Act. SECTION 210.900

This legislation requires any person responsible for the care of a person sixty years of age or older who has cause to suspect that the person has been abused, neglected, or financially exploited by a person, firm, or corporation to make a report to the Department of Health and Senior Services SECTION 565.188.1

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 Elementary and Secondary Education
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Office of the Secretary of State
Office of the State Public Defender
Missouri State Highway Patrol

Not Responding: Office of Prosecution Services



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Director
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