

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2719-04
Bill No.: SCS for HCS for HB 898
Subject: Drugs and Controlled Substances; Health Care; Health Care Professionals;
Pharmacy; Physicians
Type: Original
Date: April 26, 2004

FISCAL SUMMARY

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

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

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
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

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

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services** assume this proposal would not fiscally impact their agency. **Oversight** assumes the DOS could have some drug savings if Medicaid consumers utilize this program. **Oversight** assumes any possible savings would be reflected in future budget requests.

Officials from the **Department of Economic Development- Division of Professional Registration** assumed this proposal would not fiscally impact their agency.

Officials from the **Department of Health and Senior Services (DOH)** stated 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)** stated this proposal assigns the Department

ASSUMPTION (continued)

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.

In response to a similar fiscal note, officials from the **Department of Mental Health (DMH)** assumed no fiscal impact to 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 DMH 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 the 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 if DMH consumers utilize this program. **Oversight** assumes any possible savings would be reflected in future budget requests.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** stated 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 \$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.

<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>

FISCAL IMPACT - Small Business

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 in the Department of Health and Senior Services. The program must be established by January 1, 2005.

In its main provisions, the proposal:

- (1) Requires the program to accept and dispense donated prescription drugs to Missouri residents who meet eligibility criteria;
- (2) Establishes criteria for the acceptance of drugs used in the program;
- (3) Specifies which persons can donate prescription drugs to the program and the facilities where the drugs will be collected;
- (4) Allows voluntary participation of pharmacies, hospitals, and nonprofit clinics in the program;
- (5) Requires that a participating pharmacy, hospital, or nonprofit clinic dispense the donated prescription drugs to eligible Missouri residents in compliance with applicable federal and state drug laws;
- (6) Allows a participating entity to charge a fee not to exceed 200% of the Medicaid dispensing fee to persons who receive the donated prescription drugs. The resale of donated prescription drugs is prohibited;
- (7) Prohibits persons or entities who do not violate provisions of the substitute and who act in good faith from being subject to criminal or civil liability;
- (8) Requires the director of the department, in consultation with the Missouri State Board of Pharmacy, to adopt rules to implement the program; and
- (9) Specifies the subject areas and procedures that the rules are required to address and implement.

DESCRIPTION (continued)

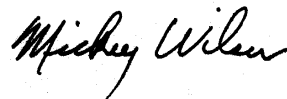
10) Sets eligibility requirements at a net family income below 300% of the federal poverty level.

The proposal contains penalty provisions.

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



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Director
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