

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2139-01  
Bill No.: HB 905  
Subject: Guardians; Medical Procedures and Personnel; Disabilities; Attorneys  
Type: Original  
Date: April 15, 2005

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
<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 2006	FY 2007	FY 2008
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Mental Health, Department of Social Services,** and **Putnam County Memorial Hospital** assume the proposal would have no fiscal impact on their organizations.

Officials from the **Department of Economic Development - Division of Professional Registration (DED-PR)** state having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), they are of the opinion the proposal, in its present form, will have no fiscal impact on the DED-PR.

Officials from the **Office of Prosecution Services** assume the proposal will not have a significant direct fiscal impact on county prosecutors.

Officials from the **Department of Health and Senior Services (DOH)** state the proposal would not be expected to fiscally impact the operations of the DOH. If an impact were to result, funds to support the program would be sought through the appropriations process.

Officials from the **Department of Corrections (DOC)** state 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 commitment depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

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 through either incarceration (FY 04 average of \$38.37 per inmate per day or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender per year).

DOC assumes the narrow scope of the crime will not encompass a large number of offenders. The low felony status of the crime enhances the possibility of plea-bargaining or the imposition of a probation sentence. The probability also exists that offenders would be charged with a similar but more serious offence of that sentences may run concurrent to one another.

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.

Officials from the **Office of State Public Defender (SPD)** state for purposes of this proposal, the SPD has assumed that existing staff could provide representation for those few cases arising where indigent persons were charged with the proposed crime.

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 accused in the now more serious cases or in the new additional cases.

Officials from the **Office of Attorney General (AGO)** state this proposal would create criminal and civil liability for state employees who are found in violation of the provisions relating to the withholding or withdrawal of nutrition and hydration. The AGO anticipates that, to the extent that this legislation exposes the state legal expense fund to additional liability, the AGO would need 0.5 FTE Assistant Attorney General I and 0.5 FTE support staff to handle any claims brought against state employees. Therefore, the AGO assumes costs of \$48,893 for FY 06; \$58,660 for FY 07; and \$60,212 for FY 08.

**Oversight** assumes the AGO would not hire two part-time staff and would assign the additional duties related to this proposal to existing staff.

Officials from the **Barton County Memorial Hospital, Bates County Memorial Hospital, Cedar County Memorial Hospital, Cooper County Memorial Hospital, Excelsior Springs Medical Center and Washington County Memorial Hospital** did not respond to our request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal prohibits the withholding or withdrawal of nutrition or hydration for a patient without a specific written power of attorney granting the authority. Before a physician, guardian, or attorney-in-fact may authorize the removal of nutrition or hydration, the physician must attempt to explain the consequences to the patient and give the patient an opportunity to respond. Any person who violates this law is guilty of a class D felony and, in the event of death or serious physical injury, may be held civilly and criminally liable.

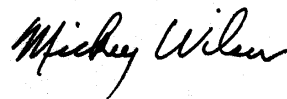
The provision will not prevent the withdrawal or withholding of medical treatment if the attending physician decides the patient cannot tolerate the treatment. However, no one may authorize the removal of nutrition or hydration by natural means with the intent of causing death to the patient.

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

Office of Attorney General  
Office of State Courts Administrator  
Department of Economic Development -  
    Division of Professional Registration  
Department of Mental Health  
Department of Corrections  
Department of Health and Senior Services  
Department of Social Services  
Office of Prosecution Services  
Office of State Public Defender  
Putnam County Memorial Hospital

**NOT RESPONDING: Barton County Memorial Hospital, Bates County Memorial Hospital, Cedar County Memorial Hospital, Cooper County Memorial Hospital, Excelsior Springs Medical Center and Washington County Memorial Hospital**



Mickey Wilson, CPA  
Director  
April 15, 2005