

HCS HB 1767 -- PROTECTIONS FOR DISABLED PERSONS AND THE ELDERLY  
(Bruns)

COMMITTEE OF ORIGIN: Senior Citizen Advocacy

This substitute makes the necessary statutory changes based on the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services. In its main provisions, the substitute:

(1) Defines "consumer," "patient," "provider", "identity theft," "personal identifying information," and "victim of identity theft";

(2) Requires the department to keep the names of individuals submitting abuse and misappropriation reports confidential unless the complainant agrees to the disclosure of his or her name, 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;

(3) Protects patients and the 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 the substitute;

(4) Makes any person failing to file a required report guilty of a class A misdemeanor and any provider who knowingly conceals abuse or neglect that results in the death or serious injury of a patient guilty of a class D felony;

(5) Creates a fine of \$1,000, to be assessed by the Department of Health and Senior Services, for any provider who willfully and knowingly fails to report known abuse by an employee;

(6) Extends the time a person can be listed on the employee disqualification list by one year if he or she is employed in a prohibited position while on the list;

(7) Restates the agency's rule-making authority to make any rule effective only if it complies with and is subject to the provisions of Chapter 536;

(8) Requires screening of new patients or new referrals by the department against the Missouri Sexual Offender Registry;

(9) Expands protection against undue influence in any transfer of real property or major transfer of personal property for less than full consideration to another person with whom the elderly

or disabled person has a confidential or fiduciary relationship;

(10) Clarifies that a confidential or fiduciary relationship includes a family member by blood or marriage, a health care provider, a trustee, an accountant, a friend, a neighbor, a spiritual advisor, or an attorney;

(11) Requires offenders who have pled guilty to or who are found guilty of a crime of violence against a child or an elderly person to be sentenced to a term of imprisonment of at least 30 days with no eligibility for probation or parole during the first 30 days;

(12) Allows a person to bring a legal action against a claimant to establish that he or she is a victim of identity theft in connection with the claimant's claim against the person whose identity was stolen;

(13) Defines "claimant" as a person who has or purports to have a claim for money or an interest in property in connection with a transaction procured through identity theft;

(14) Entitles an individual who brings a successful claim against the claimant to a declaration that he or she is not obligated to the claimant on that claim and entitles the plaintiff to an injunction restraining the claimant from collecting or attempting to collect the claim. The substitute also entitles the successful petitioner to actual damages, attorney fees, costs, and any equitable relief the court deems appropriate;

(15) Creates a civil penalty of up to \$30,000 if the victim of identity theft establishes that the claimant received written notice at least 30 days prior to filing an action that a situation of identity theft might exist, the claimant failed to investigate the possible identity theft, and the claimant continued to pursue his or her claim against the victim; and

(16) Prohibits any suspending imposition of sentence or execution of sentence or imposing of any fine in lieu of a term of imprisonment when a person pleads guilty to or is found guilty of any crimes defined under Sections 565.182, 565.200, or 570.145.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Greater than \$100,000 in FY 2007, FY 2008, and FY 2009. Estimated Income on Other State Funds of Unknown in FY 2007, FY 2008, and FY 2009.