

HCS HB 769 -- PROTECTIONS FOR VULNERABLE ADULTS AND CHILDREN

SPONSOR: Nance (Bruns)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Senior Citizen Advocacy by a vote of 6 to 0.

This substitute provides protections for vulnerable adults and children and transfers 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) Adds financial exploitation of the elderly to the public education and awareness program administered by the Department of Health and Senior Services;
- (2) Transfers the powers, duties, and functions of the Board of Nursing Home Administrators to the department;
- (3) Defines "consumer," "in-home services," "misappropriation," "personal care attendant," "principal," "patient," "provider," and "resident";
- (4) Requires any health service provider or employee and allows any other person having reasonable cause to believe that a patient or consumer has been a victim of misappropriation of a patient's money to report the information to the department;
- (5) Requires the department, upon receipt of an imminent danger report, to initiate an investigation promptly, but without a 24-hour time requirement. If an investigation indicates a crime has occurred, the appropriate law enforcement agency and the prosecutor must be notified. The department must notify the resident's legal representative of the report and investigation status when it involves a resident who has been appointed a guardian and/or conservator or who is incapacitated and resides at a state-licensed facility. The department may also notify the resident's family members or guardians;
- (6) Requires the department to keep confidential the names of individuals submitting abuse and misappropriation reports 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;
- (7) Protects a patient and the patient's family members from eviction, harassment, or retaliation due to the filing of a report of a violation or suspected violation of the provisions of

the substitute;

(8) Requires patients and consumers whose services are funded by the Missouri Medicaid Program to be checked against the sexual offender registry and requires the department to notify providers at the time of referral if a patient or consumer is listed;

(9) Makes any person failing to file a required report and any person or provider who misuses or diverts the consumer's use of any personal property or money or falsifies service delivery documents guilty of a class A misdemeanor. Any provider who knowingly conceals abuse or neglect that results in the death or serious injury of a patient will be guilty of a class D felony;

(10) Authorizes the department to assess a \$1,000 fine on any provider who willfully and knowingly fails to report known abuse by an employee;

(11) Makes any person or entity that unlawfully discloses information from the employee disqualification list guilty of an infraction;

(12) 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;

(13) Requires, as of August 28, 2007, that approved good cause waivers must be obtained for employees to gain or retain employment from a provider, but providers cannot continue to employ people with disqualifying backgrounds after March 1, 2008;

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

(15) Prohibits state and federal financial assistance to be used for the services of a personal care attendant who is listed on the employee disqualification list, is registered as a sexual offender, or has a disqualifying criminal history not excused by a good cause waiver;

(16) Prohibits courts from suspending the imposition or execution of a sentence, imposing a fine instead of a term of imprisonment for first and second degree elder abuse cases and sexual misconduct cases, and sentencing persons guilty of a crime of violence against an elderly person to less than 30 consecutive days or imposing a fine instead of imprisonment;

(17) Protects persons making a report of abuse or neglect to the department from civil and criminal liability for making the

report; and

(18) Assumes that a person responsible for the financial affairs of an elderly or disabled person that resides in a care facility has access to and controls the person's monetary funds and specifies the evidence required to substantiate the misappropriation of funds and nonpayment by the responsible person.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Greater than \$341,146 in FY 2008, Greater than \$412,810 in FY 2009, and Greater than \$438,143 in FY 2010. No impact on Other State Funds in FY 2008, FY 2009, and FY 2010.

PROPONENTS: Supporters say that the bill moves all statute references for the Division of Aging to the Department of Health and Senior Services; provides for disqualification of individuals who provide care to the elderly; and increases the penalties for crimes committed against the elderly.

Testifying for the bill were Representative Bruns; and Department of Health and Senior Services.

OPPONENTS: There was no opposition voiced to the committee.