

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3825-01
Bill No.: HB 1839
Subject: Drugs and Controlled Substances; Health Care; Health Department; Law Enforcement Officers and Agencies
Type: Original
Date: March 4, 2008

Bill Summary: This legislation establishes “Christy’s Law” which requires all health care personnel involved in the examination of a rape victim to inform the victim of his or her right to be tested for a date rape drug.

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

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

*Income and costs of \$0 to \$27,614 in FY09, \$0 to \$34,628 in FY10 & \$0 to \$36,186 in FY11 would net to \$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	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health, Missouri State Highway Patrol** and the **Department of Labor and Industrial Relations** each assume the proposal would have no fiscal impact on their respective agencies.

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 **Department of Social Services** state in FY07 the MO HealthNet Division (MHD) paid for 2,800 initial visits through the fee for service program for treatment associated with a primary diagnosis of sexual abuse. Approximately 40 of these individuals received a lab test that could have tested for date rape drugs. It is assumed that if health providers were required to inform rape victims that the drug test is available to them that additional victims will request and receive the test though it is not known how many would request the test.

The fiscal impact for this legislation is a range based on the cost if no additional rape victims requested and were provided the test and if all rape victims requested and were provided the test: $2,800 - 40 = 2,760 \times \19 (average cost lab test) = \$0 to \$52,440 annual cost for FY09.

The fiscal impact in FY09 (10 months) would be \$0 to \$43,700 (\$16,086 GR); in FY10 \$0 to \$54,800 (\$20,172 GR); and in FY11 \$0 to \$57,266 (\$21,080 GR). A 4.5% inflation factor was applied to FY10 and FY11.

ASSUMPTION (continued)

Officials from the **Department of Health and Senior Services** state the following:

Assumptions:

- DHSS would notify health care personnel of their duty to inform rape victims of their right to request a drug test for the presence of a "date rape drug" by letter.
- The health care provider would be instructed to include the informed consent form as part of the medical record.
- DHSS would assure compliance with the law by requiring providers that bill DHSS for the exam, to include a copy of the consent form with the bill.
- In addition, DHSS would assure compliance with this law by including a review of informed consent forms in the chart review done during the hospital licensing process for those entities licensed under RSMo 197. At this time it is unclear how compliance will be determined in physician offices and clinics.
- DHSS would also pay for the costs of drug tests since the testing would be part of the forensic examination to collect evidence.

Costs for Notification:

There would be minimal costs associated with sending letters to health care personnel to notify them of this requirement. Notification would be sent to hospitals, SAFE-CARE providers, and Child Advocacy Centers throughout Missouri, as well as physicians and RNs and LPNs licensed in Missouri. The costs associated with sending these notifications will be absorbed into the current budget.

The proposed legislation states "require all health care personnel involved in the examination and treatment of rape victims." This is a broad category of medical professionals and it is unclear where the ultimate responsibility would lie; physicians, nurses, paramedics, admissions staff, etc. As a result, it is not possible to estimate a cost of notifying these professionals.

Cost for Drug Tests:

The proposed legislation is not specific about what drugs would be considered "date rape drugs." The legislation states, "date rape drug" means any drug which can be used to assist in the commission of a sexual assault. Such drugs include any that commonly have sedative, hypnotic, and amnesic affects, and when used to facilitate rape are often added to a food or drink without the victim's knowledge. Under this definition, hundreds of drugs may be considered date rape drugs including: LSD/Acid, Ketamine, Mescaline, Psilocybin, PCP, Mushrooms, THC, Valium, Xanax, Ecstasy, GHB, and Rohypnol just to name a small number. In addition, alcohol is the drug most frequently used in a drug-facilitated sexual assault.

ASSUMPTION (continued)

Many of the drugs listed as "date rape drugs" require a different test to determine the presence of the drug. This may result in a minimum of 12 individual tests being conducted on each individual's blood sample to determine the presence of drugs. The cost for the drug tests vary from location to location and from lab to lab and whether it's a hospital, private lab or highway patrol lab.

Due to the numerous drugs that may be used in a drug-facilitated rape and the varying costs of the tests, the Department is unable to determine the cost that may be incurred by the DHSS in paying for the forensic examination.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
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GENERAL REVENUE FUND

<u>Costs</u> - Department of Social Services			
Laboratory Tests Costs	\$0 to (\$16,086)	\$0 to (\$20,172)	\$0 to (\$21,080)

<u>Costs</u> - Department of Health and Senior Services			
Forensic Examination Costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FEDERAL FUNDS

<u>Income</u> - Department of Social Services			
Federal Assistance	\$0 to \$27,614	\$0 to \$34,628	\$0 to \$36,186

<u>Costs</u> - Department of Social Services			
Laboratory Tests Costs	\$0 to (\$27,614)	\$0 to (\$34,628)	\$0 to (\$36,186)

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Local Government

FY 2009
(10 Mo.)

FY 2010

FY 2011

\$0

\$0

\$0

FISCAL IMPACT - Small Business

The proposed legislation may have an impact on hospitals and other public and private laboratories as a result of additional testing needed for the presence of a date rape drug.

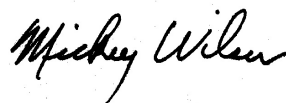
FISCAL DESCRIPTION

The proposed legislation establishes Christy's Law which requires all health care personnel involved in the examination and treatment of a rape victim to inform the victim of his or her right to be tested for the presence of a date rape drug. The drug test results will be included with all other evidence and results gathered during the examination. The Department of Health and Senior Services may establish rules to implement the provisions of the legislation.

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 Mental Health
Department of Labor and Industrial Relations
Missouri State Highway Patrol
Office of the Secretary of State
Department of Health and Senior Services
Department of Social Services



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Director
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