

HCS HB 1516 -- PROTECTIONS FOR VULNERABLE ADULTS AND CHILDREN

SPONSOR: Bruns

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 8 to 0.

This substitute changes the laws regarding protections for vulnerable adults and children. In its main provisions, the substitute:

- (1) Adds reducing the incidents of financial exploitation of the elderly to the public education and awareness program administered by the Department of Health and Senior Services (Section 192.925, RSMo);
- (2) Transfers the Division of Aging from the Department of Social Services to the Department of Health and Senior Services (Section 192.2000);
- (3) Transfers the powers, duties, and functions of the Board of Nursing Home Administrators from the Department of Social Services to the Department of Health and Senior Services (Section 192.2000.9);
- (4) Revises the definition of "protective services" to mean a service provided by the state or other governmental or private organizations or individuals which are necessary for the eligible adult to meet his or her essential human needs (Section 192.2003);
- (5) Grants immunity from civil and criminal liability for any person making a report of abuse or neglect to the Department of Health and Senior Services unless the person acts negligently, recklessly, in bad faith, or with malicious purpose (Sections 192.2103.5 and 192.2150.11);
- (6) Defines "consumer," "in-home services," "misappropriation," "personal care attendant," "principal," "patient," "provider," and "resident" as they relate to abuse and neglect of the elderly, the disabled, and children (Section 192.2150);
- (7) Requires any health service provider, health service vendor employee, personal care attendant, or any person having reasonable cause to believe that a patient or consumer has been a victim of misappropriation of a patient's money or property or has falsified documents verifying delivery of health care services to report the information to the Department of Health and Senior Services within 24 hours of discovering the act (Sections 192.2150.2 and 192.2150.3);

(8) Requires the Department of Health and Senior Services, upon receipt of an imminent danger report, to initiate a thorough investigation promptly, but removes the 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 (Sections 192.2150.6 and 192.2150.7);

(9) Requires the Department of Health and Senior Services to keep confidential the names of individuals submitting abuse and misappropriation reports unless the complainant agrees to the disclosure of his or her name; it is necessary to prevent further abuse and neglect, misappropriation of funds, or document falsification; 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 (Section 192.2150.9);

(10) Requires the Department of Health and Senior Services to add persons who have falsified documents verifying service delivery to consumers or have misappropriated property or moneys belonging to consumers to the employee disqualification list (Section 192.2150.12);

(11) Protects a patient and the patient's family members or an employee from eviction, harassment, or retaliation due to the filing of a report of a violation or suspected violation of the provisions of the substitute (Section 192.2150.13);

(12) Requires potential patients and consumers whose services are funded by the MO HealthNet Program to be checked against the sexual offender registry and requires the Department of Health and Senior Services to notify providers at the time of referral if a patient or consumer is on the registry (Section 192.2150.15);

(13) Specifies that any person failing to file a required report within the time guidelines and any person or provider who misuses or diverts the consumer's use of any personal property or money or falsifies service delivery documents will be guilty of a class A misdemeanor. Any provider or employee 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 (Sections 192.2153.1 - 192.2153.3);

(14) Authorizes the Department of Health and Senior Services to assess a \$1,000 fine on any provider who willfully and knowingly fails to report known abuse by an employee (Section 192.2153.4);

(15) Specifies that any person or entity who unlawfully discloses information from the employee disqualification list will be guilty of an infraction; and upon request from the Division of Employment Security within the Department of Labor and Industrial Relations, the Department of Social Services must provide copies of employee investigation reports of those on the list. Those persons on the list cannot be paid from public moneys for personal care assistant services (Sections 192.2153.11 - 192.2153.13);

(16) Requires health care providers or employment agencies to inquire to the Department of Health and Senior Services if a full or part-time applicant for employment which involves consumer contact is on the employee disqualification list prior to hiring the applicant (Section 192.2178.3);

(17) Prohibits, as of August 28, 2008, a provider from hiring any person with a disqualifying history unless the person has submitted an approved good cause waiver. Providers cannot continue to employ people who were employed prior to August 28, 2008, with disqualifying backgrounds after March 1, 2009, unless the person submits an approved good cause waiver prior to January 1, 2009. An employer who knowingly hires a person who is a registered sexual offender on or after August 28, 2008, will be guilty of a class A misdemeanor (Sections 192.2178.7 and 192.2178.8);

(18) Specifies that a consumer-directed service consumer or hospice will be guilty of a class A misdemeanor if it does not request a background screening check from the family care safety registry prior to allowing the employee to have contact with an in-home patient (Section 192.2178.9);

(19) Prohibits any state or federal funding for personal care assistance services if the attendant is on the employee disqualification list; is a registered sexual offender; or has a disqualifying criminal history, unless a good cause waiver is obtained (Section 208.909.4);

(20) Defines "related personal care" as care provided for a person with a physical or medical disability by an adult relative as it relates to the Family Care Safety Act (Section 210.900.2); and

(21) Requires any person responsible for the care of a person 60 years of age or older who has cause to suspect that the person

has been abused, neglected, or financially exploited by a person, firm, or corporation to make a report to the Department of Health and Senior Services (Section 565.188.1).

FISCAL NOTE: Estimated Income on General Revenue Fund of \$0 in FY 2009, Unknown in FY 2010, and Unknown in FY 2011. Estimated Income on Other State Funds of \$3,234,000 in FY 2009, \$501,600 in FY 2010, and \$501,600 in FY 2011.

PROPOSERS: Supporters say that the bill provides protection to our most vulnerable citizens and it would be better to move the Division of Aging from the Department of Social Services to the Department of Health and Senior Services.

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

OPPOSERS: There was no opposition voiced to the committee.