

HCS SS SCS SB 89 -- PUBLIC SAFETY

SPONSOR: Stouffer (Wasson)

COMMITTEE ACTION: Voted "do pass" by the Committee on Public Safety by a vote of 10 to 0.

This substitute changes the laws regarding public safety. In its main provisions, the substitute:

- (1) Requires certain homebuilders to offer to any purchaser the option to install or equip his or her dwelling or residence with a fire sprinkler system at the purchaser's cost (Section 67.281, RSMo);
- (2) Adds reducing the incidents of financial exploitation of the elderly to the public education and awareness program regarding elder abuse and neglect administered by the Department of Health and Senior Services (Section 192.925);
- (3) Transfers the Division of Aging from the Department of Social Services to the Department of Health and Senior Services (Section 192.2000);
- (4) 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);
- (5) Revises the definition of "protective services" as a service provided by the state or other governmental or private organization or individual to ensure the safety and well being of an elderly person or an adult with disabilities who is in danger of being mistreated or neglected and unable to take care of or protect himself or herself from harm (Section 192.2003);
- (6) 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);
- (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, 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, guardians, or conservators (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 an in-home services consumer or who have misappropriated property or moneys belonging to these consumers to the employee disqualification list for employees of any provider or consumer (Section 192.2150.12);

(11) Protects a patient and the patient's family members or an employee from eviction, harassment, dismissal, 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 in-home services patients and consumers whose services are funded by the MO HealthNet Program to be checked against the sexual offender registry maintained by the State Highway Patrol 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 an in-home services 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 of in-home services who willfully and knowingly fails to report known abuse by an employee. Any provider may seek a review of a department's decision by the Administrative Hearing Commission which may be appealed to the circuit court in the county where the violation occurred (Section 192.2153.4);

(15) Specifies that any person or entity providing in-home services who unlawfully discloses information from the employee disqualification list will be guilty of an infraction. 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 individuals on the list. Persons on the list cannot be paid from public moneys for personal care assistant services (Sections 192.2175.11 - 192.2175.12);

(16) Requires health care providers or employment agencies to make inquiries to the Department of Health and Senior Services to determine 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, 2009, 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 hired prior to August 28, 2009, with disqualifying backgrounds unless the person submits an approved good cause waiver. An employer who knowingly hires a person who is a registered sexual offender on or after August 28, 2009, will be guilty of a class A misdemeanor (Sections 192.2178.7 and 192.2178.8);

(18) Specifies that a consumer-directed services vendor 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 an employee to have contact with an in-home patient (Section 192.2178.10);

(19) Clarifies existing language regarding which facilities are required to comply and the date by which they must comply with the provisions regarding the installation of sprinkler systems and allows the Department of Health and Senior Services to conduct fire safety inspections of skilled nursing or intermediate care facilities for compliance with state statutes regarding the installation of the sprinkler system (Section 198.074);

(20) Allows any long-term care facility licensed under Chapter

198 to request criminal background checks of a resident (Section 198.187);

(21) Specifies that no person may be assigned to inspect or survey a long-term care facility if he or she was an employee of the facility in the preceding two years (Section 198.525);

(22) Establishes the Missouri Informal Dispute Resolution Act which requires the Department of Health and Senior Services to establish and utilize an informal dispute resolution process when evaluating the performance of inspectors enforcing regulation standards upon licensed long-term care facilities in the state (Section 198.545);

(23) Increases the grant amount that MO HealthNet participants with disabilities transitioning from nursing homes back into the community are eligible to receive from \$1,500 to \$2,400, allows senior citizens to be eligible for the grant, moves grant administration from the Division of Vocational Rehabilitation within the Department of Elementary and Secondary Education to the Division of Senior and Disability Services within the Department of Health and Senior Services in consultation with the Department of Social Services, and changes the responsibility for developing information and training on community-based service options for residents transitioning into the community to the departments of Health and Senior Services and Mental Health (Section 208.819);

(24) 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);

(25) 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);

(26) 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. Any person who purposely files a false report will be guilty of a class D felony (Section 565.188);

(27) Specifies that any person who commits the offense of identity theft against an elderly or disabled person can be fined up to one and one-half times the maximum fine, imprisoned for up to one and one-half times the maximum sentence term, or both (Section 570.223.3); and

(28) Allows the Elevator Safety Board within the Department of Insurance, Financial Institutions and Professional Registration to adopt a code of rules and regulations governing the licenses of elevator mechanics and elevator contractors (Section 701.355).

The provisions regarding homebuilders installing a fire sprinkler system at the purchaser's cost will expire August 28, 2011.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$1,465,017 in FY 2010, \$820,052 in FY 2011, and \$842,713 in FY 2012. Estimated Income on Other State Funds of \$3,234,000 in FY 2010, \$501,600 in FY 2011, and \$501,600 in FY 2012.

PROPONENTS: Supporters say that the bill changes the laws regarding long-term care facility inspections to provide for fair assessments of the facilities.

Testifying for the bill were Senator Stouffer; Missouri Association of Homes for the Aging; Missouri Health Care Association; and Missouri Coalition for Quality Care.

OPPONENTS: There was no opposition voiced to the committee.