

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0943-01
Bill No.: HB 352
Subject: Victims of Crime; Drugs and Controlled Substances; Health Care; Hospitals
Type: Original
Date: February 10, 2015

Bill Summary: This proposal enacts the Compassionate Assistance for Rape Emergencies (CARE) Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(\$60,404)	(\$65,082)	(\$65,897)
Total Estimated Net Effect on General Revenue	(\$60,404)	(\$65,082)	(\$65,897)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	1	1	1
Total Estimated Net Effect on FTE	1	1	1

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Health and Senior Services (DHSS)** assume the following:

Division of Regulation and Licensure (DRL) (§191.713.2.(3) & §191.714.5)

DHSS assume §191.713.2.(3) defines "health care facility" as "any urgent care center or facility that offers treatment for patients during normal business, after-business, or weekend hours and that is affiliated with a licensed hospital." This is a broad definition and could include outpatient clinics, urgent care centers and in some cases physician offices. DRL is also unsure of the meaning of the term "affiliated"; this could be construed to mean "owned" by the hospital, "operated" by the hospital, etc. Further, §191.714.5 states "The department of health and senior services shall respond to complaints and shall periodically determine whether hospitals and health care facilities are complying with the provisions of this section." The Section for Health Standards and Licensure inspects hospitals and responds to complaints about hospital care, but does not inspect or investigate complaints for any other facility that may fall under the definition of "health care facility". DRL would be required to investigate complaints and periodically determine compliance at these additional facilities.

According to the Missouri State Highway Patrol Statistical Analysis Center, there were 1,510 forcible rapes reported in the state of Missouri during 2012 (the most recent year for which data is available). The number of potential complainants is therefore 1,510. It is assumed for fiscal note purposes that one percent of the cases will result in a complaint, totaling 15 complaints. The total time required for complaint investigations related to the proposed language is two hours. Complaint investigations would be conducted by a Health Program Representative II and would be conducted in the office and not on-site.

For fiscal note purposes due to the uncertainty of the definitions in the proposed legislation, the total number of hospitals and health care facilities in Missouri that may be subject to the proposed legislation is assumed to equal 30,366 (149 hospitals + 30,217 sites at which physicians practice). Assuming that DRL would perform a periodic review every five years on a facility, there would be 6,073 (30,366/5) reviews performed each year. The number of hours required for periodic desk reviews = one hour. Periodic desk reviews would be completed and tracked by a Health Program Representative II (HPR).

6,073 reviews X 1 hour = 6,073 hours/2,080 hours = 2.91 rounded to 3.00 FTE HPR II to cover the 15 complaints.

It is assumed that any database necessary to track the 30,217 records and complaints will be designed by DRL personnel and maintained by the HPRs.

ASSUMPTION (continued)

Oversight notes that Section 191.714 provides that it shall be the standard of care for any “hospitals and any health care facility that provides emergency care to sexual assault victims” (emphasis added) to provide each victim with medically and factually accurate oral and written information about emergency contraception, orally inform the victim of her option to be provided emergency contraception, provide the complete regimen of emergency contraception for each victim who requests it, and follow the Department of Justice protocols on HIV/STI screening and prophylactic treatment as referenced in 19 CSR 40-10.010 and the sexual assault forensic exam checklist promulgated by the DHSS.

Oversight assumes this language does not apply to outpatient clinics, urgent care centers and in some cases physician offices as provided by DHSS as these are not places that would generally provide “emergency care for sexual assault victims”. Therefore, Oversight assumes the DHSS would not need 3 FTE to investigate a potential 15 complaints per year and that the number of facilities in which periodic reviews were to be performed would not total a number exceeding 30,000. Oversight assumes the DHSS would need one FTE HPR II to investigate the complaints, perform period reviews of hospitals and other emergency care facilities and any database necessary to track the complaints and periodic reviews, plus necessary equipment and expenses. Oversight assumes the DHSS would not need additional space for one (1) FTE. However, if the number of complaints or the number of period reviews substantially exceed Oversight’s assumptions, the DHSS may request additional personnel and all necessary funding through the appropriations process.

Office of General Counsel (§§191.714.5 and 191.714.6)

DHSS assumes it has the ability to impose fines on hospitals or health care facilities for non-compliance with the provisions of the bill. A \$5,000 fine would be imposed for each woman who is denied information about emergency contraception or who is not offered or provided emergency contraception. A \$5,000 fine would be imposed for failure to comply with the provisions of the bill and another \$5,000 for every 30 days that the hospital or health care facility is not in compliance. The amount of revenue that would be generated cannot be determined. The legislation does not specify where this funding is to be deposited.

It is unknown as to how many violations would be reported under the Act which would require an administrative penalty. The cost of this to the Office of General Counsel is unknown, as it cannot be determined how many penalties will take place. It is assumed to be under \$100,000.

Oversight assumes, based on DHSS’ assumption that approximately 1% of forcible rapes may result in a complaint against a hospital or a health care facility that provides emergency care to an assault victim, that the DHSS’ Office of General Council can absorb the work associated with the administrative penalties that may be imposed. However, if the number of complaints or the work involved with imposing these penalties substantially exceed Oversight’s assumptions, the DHSS may request additional personnel and funding through the appropriations process.

ASSUMPTION (continued)

Oversight notes Article IX, Section 7 of the Missouri Constitution provides that fines and penalties be distributed to schools. Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Directors Office, Office on Women's Health (§191.714.3)

DHSS assumes that currently, there are 128 hospitals in Missouri that report having emergency departments. There is an additional unknown number of health care facilities that may provide care to sexual assault victims. To ensure that an adequate number of brochures are provided for hospitals and health care facilities, 10,000 brochures will be printed. Printing costs for a tri-fold, four-process color brochure would be \$0.08 per brochure, totaling \$800 (10,000 x .08). The brochures would be distributed to hospitals and other health care facilities throughout the state. Mailing for an estimated 200 packets is \$600 (\$3.00/packet x 200 packets).

Officials from the **University of Missouri Health Care** has reviewed the proposed legislation and determined that, as written, it should not create additional expenses in excess of \$100,000 annually.

Oversight assumes expenses of less than \$100,000 annually are absorbable by the University.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Public Safety, Missouri State Highway Patrol, the Department of Social Services, Divisions of Legal Services, MO HealthNet, and Youth Services, the Missouri Consolidated Health Care Plan, the Missouri Department of Conservation, the Missouri Department of Transportation, the Columbia/Boone County Department of Public Health and Human Services, the Harrison County Public Health Department and Hospice, the Joint Committee on Administrative Rules and the City of Independence Health Department** each assume the proposal would not fiscally impact 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

ASSUMPTION (continued)

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.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
<u>Costs - DHSS (§§191.713 & 191.714)</u>			
Personal service	(\$29,120)	(\$35,293)	(\$35,646)
Fringe benefits	(\$15,144)	(\$18,354)	(\$18,538)
Equipment and expense	<u>(\$16,140)</u>	<u>(\$11,435)</u>	<u>(\$11,713)</u>
Total <u>Costs - DHSS</u>	<u>(\$60,404)</u>	<u>(\$65,082)</u>	<u>(\$65,897)</u>
FTE Change - DHSS	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$60,404)</u>	<u>(\$65,082)</u>	<u>(\$65,897)</u>
Estimated Net FTE Change on the General Revenue Fund	1 FTE	1 FTE	1 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2016 (10 Mo.)	 FY 2017	 FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposal establishes the Compassionate Assistance for Rape Emergencies (CARE) Act which requires that the standard of care for any health care facility that provides emergency care to a sexual assault victim will be to give the victim information regarding emergency contraception, inform the victim of her option to be provided emergency contraception, and provide a complete regimen of emergency contraception if requested. The health care provider must follow federal Department of Justice protocols on HIV/STI screening and prophylactic treatment. An emergency health care facility must ensure that the victim is treated by a provider who has medically and factually accurate, objective information about emergency contraception.

The Department of Health and Senior Services must:

(1) Produce informational materials regarding emergency contraception for the prevention of pregnancy for distribution in any health care facility. The materials must be medically and factually accurate and objective; be clearly written and comprehensible; provide an explanation of the use, safety, efficacy, and availability of emergency contraception; and explain that it does not cause an abortion; and

(2) Respond to complaints and periodically perform compliance checks on emergency health care facilities. If a facility is not in compliance, the department will impose a \$5,000 administrative penalty for each woman who is denied the informational materials or who is not offered emergency contraception and a \$5,000 administrative penalty for failure to comply with the provisions of the bill with an additional \$5,000 penalty for every 30 days of noncompliance.

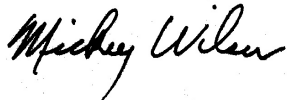
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Department of Health and Senior Services
Department of Public Safety -
 Missouri State Highway Patrol
Department of Social Services
Joint Committee on Administrative Rules
Missouri Consolidated Health Care Plan
Missouri Department of Conservation
Missouri Department of Transportation
Office of Secretary of State

SOURCES OF INFORMATION (continued)

University of Missouri
Columbia/Boone County Department of
Public Health and Human Services
Harrison County Public Health Department and Hospice
City of Independence Health Department



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February 10, 2015

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