

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5065-02  
Bill No.: HCS for HB 1916  
Subject: Nursing Homes and Long-term Care Facilities  
Type: Original  
Date: April 12, 2018

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Bill Summary: This proposal establishes the Authorized Electronic Monitoring in Long-term Care Facilities Act.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	\$0	(\$12,660)	(\$19,370)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>(\$12,660)</b>	<b>(\$19,370)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2019	FY 2021	FY 2021
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Health and Senior Services** assume the proposal would not fiscally impact their agency.

Officials from the **Department of Corrections (DOC)** state the bill contains two new misdemeanor charges. Since misdemeanor charges are not under the purview of the DOC, these charges will have no impact on DOC. The bill also creates a new Class D felony for tampering with the surveillance equipment to conceal a felony. This is similar in intent to current statutes, which were class D felonies prior to the change in classification on January 1, 2017:

575.020.001, RSMo, a class E felony for concealing a felony

575.030.001, RSMo, a class E felony for hindering prosecution of a felony

575.100.001, RSMo, a class E felony for tampering with physical evidence in a felony prosecution.

In FY 2017, forty-two person were found guilty of concealing, hindering, or tampering with evidence in a felony matter (18 were incarcerated and 24 were given probationary terms). In light of this data, the DOC estimates the number of offenders from the standard response of a new non-violent class E felony: one person sent to prison and two persons to probation each year. The standard response for a new non-violent class D felony determines the sentence length. For incarceration, the sentence is 5 years with the time to first release at 1.7 years; for probation, the term is 3.0 years. The full impact to DOC occurs in FY2023, with an increase of three persons to incarceration and eight persons to field supervision.

If this impact statement has changed from statements submitted in previous years, it is because the DOC has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

ASSUMPTION (continued)

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

The DOC cost of incarceration is \$17.003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

	# to prison	Cost per year	Total Costs for <b>prison</b>		# to probation & parole	Cost per year	Total cost for <b>probation and parole</b>	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	1	(\$6,206)	(\$5,172)		2	absorbed	\$0	(\$5,172)
Year 2	2	(\$6,206)	(\$12,660)		4	absorbed	\$0	(\$12,660)
Year 3	3	(\$6,206)	(\$19,370)		6	absorbed	\$0	(\$19,370)
Year 4	3	(\$6,206)	(\$19,758)		7	absorbed	\$0	(\$19,758)
Year 5	3	(\$6,206)	(\$20,153)		8	absorbed	\$0	(\$20,153)
Year 6	3	(\$6,206)	(\$20,556)		8	absorbed	\$0	(\$20,556)
Year 7	3	(\$6,206)	(\$20,967)		8	absorbed	\$0	(\$20,967)
Year 8	3	(\$6,206)	(\$21,386)		8	absorbed	\$0	(\$21,386)
Year 9	3	(\$6,206)	(\$21,814)		8	absorbed	\$0	(\$21,814)
Year 10	3	(\$6,206)	(\$22,250)		8	absorbed	\$0	(\$22,250)

**Oversight** assumes the DOC could absorb the minimal costs for FY19.

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime of intentionally hampering, obstructing, tampering with, or destroying a video or audio recording made in a resident's room within a long-term care facility - a new class B misdemeanor. The offense could be escalated to a Class D felony if the acts are used to conceal a felony offense.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

Officials from the **Office of Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation.

Officials from the **Office of State Courts Administrator (OSCA)** state this proposal may have some impact, but there is no way to quantify that impact at the present time. Any significant changes will be reflected in future budget requests.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS.

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.

Officials from the following **nursing home districts**: Clark County, Knox County, Loch Haven, Maple Lawn, Monroe Manor, Scotland County, Sunnyview and Tri-County did not respond to **Oversight's** request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>GENERAL REVENUE FUND</b>			
<u>Costs - DOC (\$198.620)</u>			
Increase in incarceration and parole costs	<u>\$0</u>	<u>(\$12,660)</u>	<u>(\$19,370)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<u><b>\$0</b></u>	<u><b>(\$12,660)</b></u>	<u><b>(\$19,370)</b></u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>

#### FISCAL IMPACT - Small Business

This proposal may have an administrative impact on small business long-term care facilities.

#### FISCAL DESCRIPTION

This bill creates the "Authorized Electronic Monitoring in Long-Term Care Facilities Act."

This proposal provides that a resident may be permitted to conduct authorized electronic monitoring of the resident's room if the facility in which the resident resides permits electronic monitoring devices in its policies and procedures, and the monitoring device complies with the facility's requirements. A resident authorized to conduct authorized electronic monitoring shall do so at his/her own expense including paying purchase, installation, maintenance, and removal costs. No facility shall charge the resident a fee for the cost of electricity used by the device.

No person or entity shall knowingly hamper, obstruct, tamper with, or destroy a video or audio recording obtained in accordance with sections 198.610 to 198.630 without the permission of the resident or the individual who consented on behalf of the resident. A person or entity who violates this section is guilty of a class B misdemeanor. A person or entity that violates the

FISCAL DESCRIPTION (continued)

provisions of section 198.620 in the commission of or to conceal a misdemeanor offense is guilty of a class A misdemeanor and a person or entity that violates this section in the commission of or to conceal a felony offense is guilty of a class D felony.

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 Corrections  
Joint Committee on Administrative Rules  
Missouri Office of Prosecution Services  
Office of State Courts Administrator  
Office of Secretary of State  
Office of State Public Defender

Ross Strobe



Acting Director  
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