

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5793-06
Bill No.: Perfected HCS for HB 2105
Subject: Health Care; Drugs and Controlled Substances; Pharmacy; Health and Senior Services Department; Insurance, Financial Institutions and Professional Registration Department; Mental Health Department; Physicians
Type: Original
Date: March 29, 2018

Bill Summary: This proposal establishes the Opioid Addiction Prevention and Treatment Act of 2018.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(Could exceed \$36,406,976)	(Could exceed \$36,375,402)	(Could exceed \$36,384,855)
Total Estimated Net Effect on General Revenue	(Could exceed \$36,406,976)	(Could exceed \$36,375,402)	(Could exceed \$36,384,855)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 pages.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	1	2	2
Total Estimated Net Effect on FTE	1	2	2

☒ 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 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§334.037 - Collaborative Practice Arrangements

House Amendment (HA) 1 adds 334.037 relating to collaborative practice arrangements with assistant physicians. **Oversight** assumes HA 1 will have no fiscal impact.

§§195.650 - 195.665 - Prescription Abuse Registry

HA 1 to HA 1 adds §§195.650 - 195.665

§§195.655, 195.660 and 195.665 - Prescription abuse registry

Officials from the **Department of Health and Senior Services (DHSS)** state the proposed legislation establishes a Prescription Abuse Registry within DHSS. The legislation allows individuals eighteen years of age or older to be placed in the registry. For fiscal note purposes, DHSS assumes requests to be listed in the registry will be received electronically.

DHSS will require at a minimum, one FTE to implement and maintain the Prescription Abuse Registry. DHSS assumes for fiscal note purposes that staff will have access to the prescription abuse registry. The following FTE will be needed:

One Health Program Representative I/II (\$35,640 annually) will be required to establish and maintain the registry, assist with the rule writing process, implement the provisions of the legislation, and process the applications for removal. This position will be filled in September 2018.

DHSS assumes for fiscal note purposes that the mailing costs for request for removal decisions from the registry would be minimal.

DHSS officials submitted the fiscal note response for the **Office of Administration (OA), Information Technology Services Division (ITSD)/DHSS**. OA, ITSD/DHSS assumes that every new IT project/system will be bid out because all ITSD resources are at full capacity. The current contract rate for IT consultants is \$75 per hour.

This project has been assumed to be an 11 month project with an expected project team of a project manager, business analyst, and developer. It has been assumed that this application will be a web application hosted on an existing web server. Database space has been projected at 50GB for the development and test environments with 100GB for the production environment. IT environment costs have been estimated based on the Fiscal Year 2018 State Data Center Cost Allocation Plan.

ASSUMPTION (continued)

ITSD assumes this project will require 4,575.96 hours IT consultant time ($4,575.96 * \$75 = \$343,197$) plus supply costs for an FY19 cost to GR of \$343,815; on-going costs are estimated to be \$71,115 and \$72,893 for FY20 and FY21, respectively.

In summary, the DHSS estimates total costs to General Revenue of \$411,672 for FY19; \$143,385 for FY 20; and \$146,001 for FY21.

Oversight assumes DHSS would not need additional rental space for 1 new FTE for this single proposal. However, Oversight notes, depending on the number of proposals passed during the legislative session, that cumulatively, DHSS may need additional rental space or capital improvements as determined by the Office of Administration, Facilities Management, Design and Construction.

§195.665 - Disclosure of prescription abuse registry information

Officials from the **Department of Corrections (DOC)** state this legislation proposes a class E felony for individuals, authorized or unauthorized, who unlawfully access prescribing or dispensing information or disclose said information. Prior to January 1, 2017, a class E felony did not exist. In order to provide information on the impact of this legislation, standard impact for new offenses of a class E felony for a nonviolent offense is substituted. In FY2017, this classification averages a 3.4-year sentence with an offender serving 2.2 years in prison and 1.2 years on parole. Average term for probation is 3.0 years. For each year, it is estimated that one offender is sentenced to an adult institution while two offenders are given probation. The cumulative annual impact on the DOC occurs in FY22 with an additional 2.2 offender-years of incarceration and 7.2 person-years of 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.

The DOC would assume this legislation will result in long term cost as indicated in the chart below:

	# to prison	Cost per year	Total Costs for prison		# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	0	(\$6,206)	\$0		0	absorbed	\$0	\$0
Year 2	1	(\$6,206)	(\$6,330)		2	absorbed	\$0	(\$6,330)
Year 3	2	(\$6,206)	(\$12,913)		4	absorbed	\$0	(\$12,913)
Year 4	2	(\$6,206)	(\$13,172)		7	absorbed	\$0	(\$13,172)
Year 5	2	(\$6,206)	(\$13,435)		7	absorbed	\$0	(\$13,435)
Year 6	2	(\$6,206)	(\$13,704)		7	absorbed	\$0	(\$13,704)
Year 7	2	(\$6,206)	(\$13,978)		7	absorbed	\$0	(\$13,978)
Year 8	2	(\$6,206)	(\$14,257)		7	absorbed	\$0	(\$14,257)
Year 9	2	(\$6,206)	(\$14,543)		7	absorbed	\$0	(\$14,543)
Year 10	2	(\$6,206)	(\$14,833)		7	absorbed	\$0	(\$14,833)

Oversight assumes the DOC can absorb the additional incarceration costs for FY 20.

In response to the similar legislation (HB 229/FN 6045.01), officials from the **Office of State Public Defender (SPD)** stated, for the purpose of this proposed legislation, the 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 knowingly disclosing information in the prescription abuse registry, a new Class E felony.

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 Administration (OA) - General Services (GS) Division** assumes that no state employee or agency would violate the proposal. Therefore, it is assumed that no successful claims will be made against the Legal Expense Fund and the proposal would have no fiscal impact upon the OA, GS. However, should that assumption prove incorrect, significant costs could be incurred by the Legal Expense Fund.

§630.875 - Improved Access to Treatment for Opioid Addictions (IATOA) Program

Officials from the **Department of Mental Health (DMH)** state under this proposal the DMH is to create and oversee the Improved Access to Treatment for Opioid Addictions (IATOA) Program. The cost to DMH may be reduced as the development of curriculum and examinations on opioid addiction and treatment is discretionary. DMH will facilitate partnerships between assistant physicians at Federally Qualified Health Centers (FQHC's), rural health clinics, and other health care facilities and physicians across the state. The DMH will be responsible for providing access to telemedicine and Extension for Community Healthcare Outcomes (ECHO) programs. There will be grant funding for FY 2019 to help with some of these requirements (ECHO costs plus FTE expenses). However, starting with year two, the DMH would have increased costs of \$241,023 and in year three and thereafter, the DMH would need \$235,062 to continue the services because of a reduction in grant funding.

Additional costs to run the IATOA program would include the cost to "establish a treatment facility in each county lacking sufficient access to opioid addiction treatment." This cost would be substantial. The DMH estimates that the need for Opioid Use Disorder (OUD) services across the state is high, with over 35,000 people needing but not receiving treatment. If even a fourth of that number (8,750 persons) presents for treatment at the new facilities, the annual cost would be over \$36,000,000 (8,750 individuals * \$4,125 average annual cost of outpatient OUD treatment = \$36,093,750). An additional factor is that the addiction workforce is not sufficient to operate new treatment facilities in every county.

This legislation broadens significantly the scope of DMH duties associated with addressing the ongoing opioid crisis. While there are currently grant funds available to assist with some collaborative and training efforts, this funding is set to end in 2019. Thus, one FTE, Program Specialist II (\$45,192 annually) would be needed to support, monitor, and/or implement the following time-intensive tasks and programs outlined in the proposed legislation:

- Development of (will require research and coordination with legal counsel, medical professionals, etc) an information and consent form on the effects of opioid medication and alternative pain treatments.

ASSUMPTION (continued)

- Creation and oversight of an "Improved Access to Treatment for Opioid Addictions Program" - this will require the gathering and dissemination of best practice information, as well as the facilitation of partnerships between key stakeholders.
 - o Coordination, oversight, monitoring of ECHO programs.
 - o Expansion and oversight of telehealth opportunities.
 - o Oversight of the development treatment facilities in EACH county of MO; this will require intensive work with more than 30 agencies.
 - o Development of curriculum and exams for assistant physicians and/or other medical providers; this will require extensive research and collaboration with knowledgeable stakeholders.
 - o Direct support/access to referral information for recovery coaches in emergency departments, post-overdose.
- Development, vetting, and promulgation of rules to implement the provisions of the act. There will need to be training developed on the implementation of rules, as well as training conducted on the new rules.
- Development of a state-wide plan on providing public information and education regarding opiates with new stakeholders.

Oversight has, for fiscal note purposes only, changed the starting salary for the Program Specialist II to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Bill as a whole

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 **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Natural Resources**, the **Department of Social Services**, the **Joint Committee on Administrative Rules**, the **Missouri Office of Prosecution Services** and the **OA, Division of Accounting** each assume the proposal would not fiscally impact their respective agencies.

ASSUMPTION (continued)

In response to the previous version of this proposal, officials from the **OA, Administrative Hearing Commission, Callaway County** and the **City of Kansas City** and each assumed the proposal would not fiscally impact their respective agencies.

In response to the previous version of this proposal, officials from the **Office of the Secretary of State (SOS)** stated 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 **cities**: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark City, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles City Administrator, St. Louis City Budget Division, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to **Oversight's** request for fiscal impact.

Officials from the following **counties**: Andrew, Atchison, Audrain, Barry, Benton, Bollinger, Boone, Buchanan, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Clinton, Cole, Cooper, Davies, Dekalb, Dent, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Perry, Pettis, Platte, Pulaski, Scott, St. Charles, St. Francois, St. Louis, Taney, Wayne, Webster, and Worth did not respond to **Oversight's** request for fiscal impact.

Oversight notes this proposal contains an emergency clause

<u>FISCAL IMPACT - State Government</u>	FY 2019	FY 2020	FY 2021
GENERAL REVENUE FUND			
<u>Costs - DHSS (§§195.655, 195.660 & 195.665)</u>			
Personal services	(\$29,700)	(\$35,996)	(\$36,356)
Fringe benefits	(\$17,811)	(\$21,479)	(\$21,586)
Equipment and expense	(\$15,650)	(\$9,019)	(\$9,245)
Total <u>Costs - DHSS</u>	(\$63,161)	(\$66,494)	(\$67,187)
FTE Change - DHSS	1 FTE	1 FTE	1 FTE
<u>Costs - OA, ITSD (§§195.655, 195.660 & 195.665)</u>			
System modifications and on-going costs	(\$343,815)	(\$71,115)	(\$72,893)
<u>Costs - DOC (§195.665)</u>			
Increase in incarceration costs	\$0	\$0	(\$12,913)
<u>Costs - DMH (§630.875)</u>			
Personal service	\$0	(\$43,208)	(\$43,640)
Fringe benefits	\$0	(\$23,621)	(\$23,740)
Equipment and expense	\$0	(\$11,482)	(\$1,013)
Telehealth (ECHO) expense	\$0	(\$159,482)	(\$163,469)
Additional treatment costs	(Could exceed \$36,000,000)	(Could exceed \$36,000,000)	(Could exceed \$36,000,000)
Total <u>Costs - DMH</u>	(Could exceed \$36,000,000)	(Could exceed \$36,237,793)	(Could exceed \$36,231,862)
FTE Change - DMH	0 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	(Could exceed \$36,406,976)	(Could exceed \$36,375,402)	(Could exceed \$36,384,855)
Estimated Net FTE Change on the General Revenue Fund	1 FTE	2 FTE	2 FTE

FISCAL IMPACT - Local Government

FY 2019

FY 2020

FY 2021

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill establishes the "Prescription Abuse Registry" within the Department of Health and Senior Services beginning January 1, 2020. Any individual 18 and older may request to be listed in the registry. Identifying information on individuals in the registry shall be maintained by the department. Information in the registry shall be confidential and not subject to public disclosure, except for health care providers to access for the sole purpose of determining whether or not an individual is listed. The only information provided will be a response that only confirms or denies the individual's listing in the registry.

Individuals listed in the registry for at least five years may petition to be removed from the registry. An administrative hearing will be set as outlined in the bill.

Any individual who unlawfully and knowingly accesses or discloses, or a person authorized to have information in the prescription abuse registry knowingly uses such information in a manner violating the provisions of the bill will be subject to penalties as specified in the bill.
(§§195.650 - 195.665)

IMPROVED ACCESS TO TREATMENT FOR OPIOID ADDICTIONS ACT

The bill creates the "Improved Access to Treatment for Opioid Addictions Program," (IATOA), which will disseminate information and best practices regarding opioid addiction. Assistant physicians who participate in the IATOA program must complete requirements to prescribe buprenorphine within 90 days of joining the program. The department may develop curriculum, examinations, and certification on the subject of opioid addiction and treatment.

An assistant physician in the IATOA program may serve several functions. When an overdose survivor comes to an emergency room, an assistant physician shall provide treatment options and support to the survivor, when reasonable practicable (§ 630.875).

This proposal contains an emergency clause.

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 Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Corrections
Department of Social Services
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Office of Administration -
 Administrative Hearing Commission
 Division of Accounting
 General Services Division
Office of State Courts Administrator
Office of Secretary of State
Office of State Public Defender

Ross Strobe



Acting Director
March 29, 2018