

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1149H.01I
Bill No.: HB 632
Subject: Health and Senior Services, Department of; Health Care; Health Care
Professionals
Type: Original
Date: March 8, 2021

Bill Summary: This proposal creates provisions relating to end-of-life care homes.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	(\$280,640 to \$1,019,099)	(\$316,812 to \$1,318,276)	(\$320,105 to \$1,329,503)
Total Estimated Net Effect on General Revenue	(\$280,640 to \$1,019,099)	(\$316,812 to \$1,318,276)	(\$320,105 to \$1,329,503)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	4 to 13 FTE	4 to 13 FTE	4 to 13 FTE
Total Estimated Net Effect on FTE	4 to 13 FTE	4 to 13 FTE	4 to 13 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§198.012 and 198.190 – End –of-life care homes

Officials from the **Department of Health and Senior Services (DHSS)** state §198.190 establishes the basis for registering end-of-life care homes by the DHSS, Division of Regulation and Licensure (DRL), Section for Long-Term Care Regulation (SLCR). The legislation would create another licensure category that would require rule review, promulgation, revision/creation of applications, forms, and policies and procedures to oversee the end-of-life care home registry and inspection process.

The legislation provides that the DHSS can charge an application fee up to \$100 for a two year license. If DHSS chooses to charge \$100 to the estimated 300 facilities that apply to be licensed as an end-of-life care home, this could result in a revenue up to \$30,000 (\$100 x 300), for an average of \$15,000 annually.

DRL

SLCR is unsure of the number of facilities that will apply to be licensed, so a range of zero to 300 facilities was used as an estimate for fiscal note purposes. This would require SLCR to complete up to 300 additional inspections and up to 600 additional investigations of complaints per year. (SLCR investigates an average of 2.4 complaints per facility, per year.)

To establish the registration process, promulgation of rules, revision or creation of applications, forms, and policies, etc. of this proposal, the SLCR will hire 4 FTE to start on September 1, 2021, as described below:

One (1) Regulatory Compliance Manager (salary \$66,556) will be needed to promulgate rules; establish policies and procedures; and create applications and forms for the end-of-life care home licensure and inspection process. This manager will oversee the implementation of the program and supervise the licensure process, including application review, issuance of licenses, and record retention.

One (1) Administrative Support Assistant (salary \$27,851) will be needed to provide data entry into databases to track homes, inspections, and complaint investigations; issue licenses to homes; monitor inspection packets; and assist in imaging of records for record retention.

One (1) Accountant (salary \$47,269) will be needed to review applications and attachments including leases, financial information, contracts, bonds, insurance, and affiliate disclosures.

One (1) Public Health Program Specialist (salary \$42,349) will be needed to coordinate the licensure/re-licensure process between the accounting specialist, regional offices, engineering consultation unit, and unit support staff; monitor expiration dates; provide application materials and consultation; and ensure compliance prior to issuance of licenses.

If 300 facilities applied for end-of-life care home licensure, this would require SLCR to hire an additional 9 FTE to start on January 1, 2022, as described below:

Two (2) Registered Nurses (salary \$56,539) will be needed to provide direct oversight of the facility inspectors. Due to chronic health conditions that the residents in end-of-life care homes will have, a registered nurse will be needed in order to assist in medically-related complaints.

Seven (7) Regulatory Auditors (salary \$38,753) will be needed to conduct initial licensure inspections of homes, annual inspections, and complain investigations.

The Registered Nurses and Regulatory Auditors will be telecommuters and are expected to travel extensively. It is assumed the travel costs will be \$10,000 annually for these staff.

Oversight assumes, regardless of the number of end-of-life care homes that actually become licensed, DHSS will require at least 4 FTE to establish the registration process, promulgate rules, revision or create applications, forms, and policies, etc. for this proposal.

DSDS

The **DHSS, Division of Senior and Disability Services (DSDS), Long Term Care Ombudsman Program (LTCOP)** has a federal mandate to advocate for the rights of residents residing in the approximately 1,200 licensed long-term care facilities across the state by conducting visits to the facilities on a regular basis, a minimum of 4 times per year for an annual total of 4,800 visits.

The LTCOP assists with resolving complaints, such as resident rights, quality of care, and quality of life by contracting Ombudsman services with the ten Area Agencies on Aging (AAA) across the state. The AAAs employ 17 Regional Ombudsman Coordinators and recruit volunteers. Currently, there are approximately 200 volunteers in Missouri. Each volunteer is required by the Federal agency, Administration for Community Living, to receive 28 hours of training to be a designated Ombudsman.

DRL estimates up to 300 facilities will apply for licensing as end-of-life care homes. Based on that estimate, the number of facilities requiring visits and complaint resolution could increase by an additional 25 percent (300 facilities x 4 annual visits = 1,200 additional visits; $1,200 \text{ additional visits} / 4,800 \text{ annual visits} = 0.25$); therefore, increasing the workload for the LTCOP to provide advocacy services to these homes. In SFY 2020, the AAAs statewide receive \$1,060,594 to provide Ombudsman services. In order to cover the additional cost for a 25 percent

increase to the LTCOP workload, the contract with the AAAs would need to increase \$265,149 (1,060,594 x .25) (all General Revenue).

All additional operational duties and costs required by the statewide LTCOP residing within central office of DSDS could potentially be absorbed; however, until the FY22 budget is final, the department cannot identify specific funding sources.

Oversight has no information to the contrary. The fiscal note will be presented as a range of costs from 4 FTE (minimum to establish end-of-life care homes program) to the estimate provided by DHSS for 13 FTE plus equipment and supplies and AAA contracts less estimated application fees.

Officials from the **Department of Corrections (DOC)** state HB 632 intends to regulate the registration and operations of end-of-life care homes. The bill makes it a class A misdemeanor if someone violates the provisions of this section or makes false statements to register or renew such home. It makes it a class E felony if an abuse or neglect of a resident occurs in such home. Therefore, this bill creates one new class A misdemeanor offense and one new class E felony offense.

The misdemeanor offense does not fall under the purview of DOC. However, for each new nonviolent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be two additional offenders in prison and seven additional offenders on field supervision by FY 2024.

	# 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 2% inflation)
Year 22	1	(\$7,756)	(\$6,463)	2	absorbed	\$0	(\$6,463)
Year 23	2	(\$7,756)	(\$15,822)	4	absorbed	\$0	(\$15,822)
Year 24	2	(\$7,756)	(\$16,139)	7	absorbed	\$0	(\$16,139)
Year 25	2	(\$7,756)	(\$16,461)	7	absorbed	\$0	(\$16,461)
Year 26	2	(\$7,756)	(\$16,791)	7	absorbed	\$0	(\$16,791)
Year 27	2	(\$7,756)	(\$17,127)	7	absorbed	\$0	(\$17,127)
Year 28	2	(\$7,756)	(\$17,469)	7	absorbed	\$0	(\$17,469)
Year 29	2	(\$7,756)	(\$17,818)	7	absorbed	\$0	(\$17,818)
Year 30	2	(\$7,756)	(\$18,175)	7	absorbed	\$0	(\$18,175)
Year 31	2	(\$7,756)	(\$18,538)	7	absorbed	\$0	(\$18,538)

* If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (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 2019, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

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. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 48 probation and parole districts.

The DOC cost of incarceration is \$21.251 per day or an annual cost of \$7,756 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.

Oversight will, for fiscal note purposes, show DOC estimates of possible additional costs.

Officials from the **Office of Administration (OA) - Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if similar bills pass resulting in more cases, there could be a fiscal impact.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The creation of a new crime (§198.190.10) creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

Officials from the **Department of Public Safety, Division of Fire Safety and Missouri Highway Patrol**, the **Department of Social Services**, the **Office of Administration – Commissioner's Office**, the **Office of the State Courts Administrator**, the **Office of the State Public Defender**, the **Columbia/Boone County Department of Public Health and Human Services**, the **Newton County Health Department** and the **Hermann Area Hospital District** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State** notes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize 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 our office can sustain with our core budget. Therefore, they reserve 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 only reflects the responses that we have received from state agencies and political subdivisions; however, other local public health agencies and hospitals were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Revenue – DHSS (\$198.190) – Application fees</u>	Up to \$15,000	Up to \$15,000	Up to \$15,000
<u>Costs - DHSS</u>			
Personal service	(\$153,354 to \$377,558)	(\$185,865 to \$574,058)	(\$187,724 to \$579,798)
Fringe benefits	(\$91,557 to \$256,776)	(\$110,490 to \$348,964)	(\$111,117 to \$350,902)
Equipment & expense	(\$44,266 to \$128,153)	(\$19,635 to \$129,283)	(\$20,125 to \$132,515)
AAA contracts	\$0 to (\$265,149)	\$0 to (\$265,149)	\$0 to (\$265,149)
Total Costs – DHSS	<u>(\$289,177 to \$1,027,636)</u>	<u>(\$315,990 to \$1,317,454)</u>	<u>(\$318,966 to \$1,328,364)</u>
FTE Change – DHSS	4 to 13 FTE	4 to 13 FTE	4 to 13 FTE
<u>Costs – DOC (\$198.190)</u>			
Increase in incarceration and parole costs	<u>(\$6,463)</u>	<u>(\$15,822)</u>	<u>(\$16,139)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$280,640 to \$1,019,099)</u>	<u>(\$316,812 to \$1,318,276)</u>	<u>(\$320,105 to \$1,329,503)</u>
Estimated Net FTE Effect on the General Revenue Fund	4 to 13 FTE	4 to 13 FTE	4 to 13 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

This proposal may impact small business end-of-life care homes.

FISCAL DESCRIPTION

This bill defines an "End-of-Life Care Home" as a residence operated by a nonprofit organization that provides a home-like dwelling place for terminally ill residents with a life expectancy of six months or less who are enrolled in a hospice program. The bill requires the Department of Health and Senior Services to establish reasonable standards and regulations for these homes and create a process for registration which will cost no more than \$100 per home.

Staff and volunteers of the homes must be trained to recognize abuse, neglect, and exploitation. They must also have a system for grievances and allow inspection by the Department at any time. Homes caring for no more than two persons, or only persons related to the provider are exempt from registration requirements.

Any person in violation of any provision of Section 198.190, RSMo, or making false statements on a registration is guilty of a class A misdemeanor. A person violating this section wherein abuse or neglect of a resident has occurred is guilty of a class E 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 Administration –
Administrative Hearing Commission
Commissioner's Office
Department of Health and Senior Services
Department of Corrections
Department of Public Safety –
Division of Fire Safety
Missouri Highway Patrol
Department of Social Services
Missouri Office of Prosecution Services
Office of the Secretary of State

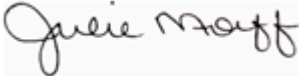
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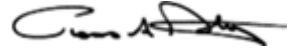
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Office of the State Public Defender
Columbia/Boone County Department of Public Health and Human Services
Newton County Health Department
Joint Committee on Administrative Rules
Office of the State Courts Administrator
Hermann Area District Hospitals



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March 8, 2021



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