

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5983H.011
 Bill No.: HB 2869
 Subject: Health Care; Civil Penalties; Hospitals; Nursing Homes and Long-Term Care
 Facilities
 Type: Original
 Date: April 2, 2024

Bill Summary: This proposal adds penalties for violations of provisions relating to compassionate care visits in health care facilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Nursing Facility Quality of Care Fund (0271)*	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown

* Oversight assumes the penalties collected would be less than \$250,000 annually.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on FTE	0	0	0

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Hospitals	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§191.1400 - Compassionate care visits in health care facilities

Officials from the **Department of Health and Senior Services (DHSS)** state the proposed legislation adds penalties for violations of provisions relating to compassionate care visitation in health care facilities. The penalties for violation outlined in Section 191.1400.10(2) include the suspension or revocation of a health care facility's license or certification issued by the Department of Health and Senior Services (DHSS) and liability to the state for a civil penalty of one thousand dollars for each day of such violation.

The Division of Regulation and Licensure's (DRL) Section for Long Term Care Regulation (SLCR) and Section for Health Standards (HSL) are responsible for the receipt and investigation of complaints related to health care facility compassionate care visitation. The addition of penalties in the proposed legislation has the potential to increase enforcement activities and surveyor/supervisor time related to appeals through Informal Dispute Resolution, Administrative Hearing Commission, or Circuit court, due to the requirement to suspend or revoke the health facility's license or certification.

The State of Missouri has 1,186 long term care facilities and 162 hospitals that are licensed by the Division of Regulation and Licensure. Historically, the citation for this type of complaint has been low or non-existent; therefore, the number of penalties that would be collected as a result of the proposed legislation is unknown.

It is assumed that the Department can absorb the costs of this bill with current resources. However, if the workload significantly increased or other legislation was enacted, additional resources would be requested through the appropriation process.

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the DHSS. Oversight assumes the penalties collected would be less than \$250,000 annually.

Officials from the **Office of Administration - Budget and Planning (B&P)** state Section 191.1400.10 provides that health care facilities in violation of the Compassionate Care Visitation Act and the No Patient Left Alone Act shall be liable to the State for a civil penalty of \$1,000 per day of violation. To the extent that civil penalties may be collected due to violations of this section, Total State Revenue may increase by an unknown amount.

Oversight has no information to the contrary. Oversight has reflected the collection of the unknown amount of civil penalties in the DHSS Nursing Facility Quality of Care Fund (0271).

Officials from the **Department of Commerce and Insurance**, the **Department of Mental Health**, the **Department of Public Safety - Missouri Veterans Commission**, the **Department of Social Services** and the **Missouri Office of Prosecution Services** 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.

Officials from the **Attorney General’s Office** and the **Office of the State Courts Administrator** did not respond to **Oversight’s** request for fiscal impact for this proposal.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other nursing homes, circuit clerks and hospitals were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
NURSING FACILITY QUALITY OF CARE (0271)			
<u>Income – DHSS (§191.1400) Civil penalties p. 3</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
NURSING FACILITY QUALITY OF CARE	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL GOVERNMENT			
<u>Losses – Hospitals (§191.1400) Civil penalties for noncompliance p. 3</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
LOCAL GOVERNMENT*	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
* Oversight assumes penalties paid would be less than \$250,000 annually.			

FISCAL IMPACT – Small Business

There could be a negative direct fiscal impact to small businesses nursing homes if they are found to be out of compliance with the provisions of this proposal.

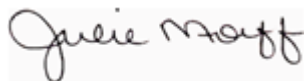
FISCAL DESCRIPTION

This bill modifies the "No Patient Left Alone Act" by establishing penalty provisions for any facility in violation of the provisions of the Act. A facility in violation will be subject to suspension or revocation of its license or certificate by the Department of Health and Senior Services, and will be liable to the State for a civil penalty of \$1,000 per day of such violation. The Attorney General or the Department may bring an action in a circuit court of competent jurisdiction. Any order by a circuit court in such an action assessing civil penalties against a health care facility will include an award of attorney's fees to the State. (§191.1400)

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 Commerce and Insurance
Department of Health and Senior Services
Department of Mental Health
Department of Public Safety - Missouri Veterans Commission
Department of Social Services
Missouri Office of Prosecution Services
Office of Administration - Budget and Planning



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