

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0854-01
Bill No.: HB 351
Subject: Children and Minors; Health Care; Medical Procedures and Personnel; Physicians
Type: Original
Date: February 9, 2015

Bill Summary: This proposal establishes disclosure regulations for entities that provide pregnancy-related services or solicits patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(\$199,424)	(\$229,636)	(\$232,334)
Total Estimated Net Effect on General Revenue	(\$199,424)	(\$229,636)	(\$232,334)

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 7 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	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 FTE	3 FTE	3 FTE

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 from the **Department of Health and Senior Services (DHSS)** assume §191.762 includes:

2. (1) The provisions of this section applies to an entity if the primary purpose of the entity is to provide pregnancy-related services and the entity advertises or solicits patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling.

and

4. The department shall promulgate rules to implement the provisions of this section.

Based on an internet search and a review of the Clinical Laboratory Improvement Amendments (CLIA) database for non-licensed locations with waivers for pregnancy testing, the Division of Regulation and Licensure (DRL) estimates that approximately 100 entities would require oversight with each entity requiring two visits per year. Each of the visits would require 2.5 days (1 day on-site; 1 day write-up and 0.5 day travel). This would require three additional staff:

2 Health Facilities Nursing Consultants (HFNC), (\$53,124 annually, each):
(100 facilities X 2 visits per year X 2.5 days per visit X 8 hours per day) ÷ 2,080 hours per year = 1.92 FTE, rounded up to 2.0 FTE. Besides entity visits, the HFNCs would also work with existing management staff on the promulgation of rules required by the proposed legislation. The HFNCs are considered to be telecommuters.

1 Senior Office Support Assistant (SOSA; \$25,824 annually) to provide clerical support to the program, respond to inquiries and requests for information, receive complaints, track the impacted entities and results of visits, etc.

DHSS assumes §191.762.3 would allow the department to collect an administrative penalty for failure to cure a violation of the provisions of §191.762 within five days of the service of a written notice. Administrative penalties in the amount of at least \$250 and up to \$10,000 are assessed based on the number of days a violation continues after the expiration of the five-day period. Given that no penalties are imposed if the violation is corrected within five days of service of the notice, the number of penalties and the dollar amount collected is expected to be minimal. DRL assumes that nearly all of the violations will be corrected within five days of notice. For fiscal note purposes, it is assumed the amount collected in administrative penalties is zero.

ASSUMPTION (continued)

Officials from the **Office of Attorney General (AGO)** assume that 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 cases.

Officials from the **Office of Administration (OA), Commissioner's Office** state there are currently eight providers contracted to provide services under the Alternative-to-Abortion (A2A) Program. The providers (and possibly their subcontractors, if applicable) could be considered an “entity” under Section 191.762.2(1) of this legislation based on the services they can provide to their clients. Under Section 191.762.1(3), the providers could be required to post written notice at all entrances of their premises that they provide adoption services or referral for adoption services. The notification would also be required on the entity’s websites and in their advertisements promoting the services they provide.

OA assumes that any costs incurred by it as a result of this proposal - as distinct from costs incurred by its contracted providers or other state agencies - could be absorbed with existing resources.

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 at the **Department of Insurance, Financial Institutions and Professional Registration, the Department of Social Services, the Joint Committee on Administrative Rules, the OA - Administrative Hearing Commission , the City of Independence Health Department and the Harrison County Public Health Department & Hospice** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
(\$191.762)			
<u>Costs - DHSS</u>			
Personal service	(\$110,060)	(\$133,393)	(\$134,727)
Fringe Benefits	(\$57,237)	(\$69,371)	(\$70,065)
Equipment and Expense	<u>(\$32,127)</u>	<u>(\$26,872)</u>	<u>(\$27,542)</u>
<u>Total Costs - DHSS</u>	<u>(\$199,424)</u>	<u>(\$229,636)</u>	<u>(\$232,334)</u>
FTE Change - DHSS	3 FTE	3 FTE	3 FTE
 ESTIMATED NET EFFECT ON GENERAL REVENUE	 <u>(\$199,424)</u>	 <u>(\$229,636)</u>	 <u>(\$232,334)</u>
 Estimated Net FTE Change on the General Revenue Fund	 3 FTE	 3 FTE	 3 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

This proposal would impact small business Alternative-2-Abortion businesses.

FISCAL DESCRIPTION

This proposal changes the law regarding entities that provide pregnancy-related services without the employment and supervision of a physician, nurse practitioner, physician assistant, registered nurse, or nurse midwife.

These provisions apply to an entity if the primary purpose of the entity is to provide pregnancy-related services and the entity advertises or solicits patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling. These provisions do not apply to an entity if, at all of the entity's sites that are open to the public, the entity employs one or more specified health professionals and has one or more of the specified practitioners onsite whenever medical services or treatment is provided.

FISCAL DESCRIPTION (continued)

An entity must provide written notice of whether the entity provides contraceptive drugs or devices that are approved by the United States Food and Drug Administration, an onsite consultation with a specified medical practitioner, adoption services or referral for adoption services, and abortion services or referral for abortion services. The notice must be conspicuously placed at all entrances to the premises at which the entity provides the services, in all areas where individuals wait to receive the services, on any website maintained by the entity that refers to the services, and in all advertisements promoting the services or promoting the entity providing the services. The notice must be written and provided in a manner that a reasonable person is likely to read and understand before accepting the services.

The proposal prohibits an entity that collects health information from a patron of the entity from disclosing the patron's health information to any other person without the written authorization of the patron. Upon receipt of a written request from a patron of the entity to examine or obtain a copy of any health information of the patron, an entity must:

- (1) Make the health information of the patron that is in the entity's possession or control available for examination by the patron during regular business hours and provide at no charge to the patron one copy of any health information of the patron that is in the entity's possession or control to the patron, if requested; or
- (2) Inform the patron that the entity does not have any health information of the patron in the entity's possession or control.

If any person violates these provisions, the department must serve the person with a written notice informing the person of the violation and stating that the person may avoid an administrative penalty by curing the violation within five days of the service of the notice. If the person fails to cure the violation within five days of the date of service of the notice, the department must impose an administrative penalty of at least \$250 but not more than \$1,000. If the violation continues for more than seven days after the expiration of the five-day period, the department may impose an additional administrative penalty of up to \$5,000 for the continued violation. If the violation continues for more than 14 days after the expiration of the five-day period, the department may impose an additional administrative penalty of up to \$10,000 for each week the violation continues.

A person is entitled to a contested case hearing to dispute any administrative penalty imposed under these provisions. Any administrative decision must be subject to judicial review in accordance with Chapter 536, RSMo. All administrative penalties recovered under these provisions must be deposited in the state General Revenue Fund and must be available for

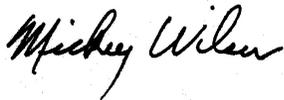
FISCAL DESCRIPTION (continued)

general governmental expenses. Nothing in these provisions must be construed to prohibit the department from maintaining an action in the name of the state for injunction or other process against any person to restrain or prevent a violation of a requirement or prohibition under these provisions.

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 Insurance, Financial Institutions and Professional Registration
Department of Social Services
Joint Committee on Administrative Rules
Office of Administration -
 Commissioner's Office
 Administrative Hearing Commission
Office of the Secretary of State
Harrison County Public Health Department and Hospice
City of Independence Health Department



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