

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1744-01  
Bill No.: SB 549  
Subject: Health Care; Health Care Professionals; Medical Procedures and Personnel;  
 Physicians; Insurance Dept.  
Type: Original  
Date: March 7, 2003

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>                   |  |  |  |
|---|--|--|--|
| FUND AFFECTED   | FY 2004                                  | FY 2005                                  | FY 2006                                  |
| General Revenue   | (Unknown less than<br>\$100,000)         | (Unknown less than<br>\$100,000)         | (Unknown less than<br>\$100,000)         |
|   |  |  |  |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue<br/>Fund</b> | <b>(Unknown less than<br/>\$100,000)</b> | <b>(Unknown less than<br/>\$100,000)</b> | <b>(Unknown less than<br/>\$100,000)</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>               |            |            |            |
|--|------------|------------|------------|
| FUND AFFECTED  | FY 2004    | FY 2005    | FY 2006    |
|  |            |            |            |
| <b>Total Estimated<br/>Net Effect on Other<br/>State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 5 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                  |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2004</b> | <b>FY 2005</b> | <b>FY 2006</b> |
|   |                |                |                |
| <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 LOCAL FUNDS</b> |                |                |                |
|--|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2004</b> | <b>FY 2005</b> | <b>FY 2006</b> |
| <b>Local Government</b>                    | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

**FISCAL ANALYSIS**

ASSUMPTION

Officials from the **Department of Social Services, Department of Health and Senior Services, Department of Transportation, Department of Insurance, Missouri Consolidated Health Care Plan** and **Department of Economic Development - Division of Professional Registration** assume the proposal would have no fiscal impact on their organizations.

Officials from the **Missouri Department of Conservation (MDC)** state the proposed legislation would not appear to have a fiscal impact on MDC funds.

Officials from the **Department of Public Safety -Missouri Highway Patrol (MHP)** defer to the Department of Transportation for response regarding the fiscal impact of this proposal on MHP.

Officials from the **Department of Mental Health (DMH)** state this proposal, by incorporating the Health Insurance Portability and Accountability Act (HIPAA) definitions of disclosure of personal health information, what comprises health information, and a reference to the federal privacy rules, allows a state agency or the Attorney General's Office to impose an administrative penalty of \$500 if nonpublic personal health information is given without a prior authorization.

ASSUMPTION (continued)

The DMH should have most policies and procedures in place to comply with the federal requirements. Accordingly, our good-faith compliance efforts should satisfy the proposal. Therefore, the DMH assumes no fiscal impact.

Officials from the **Office of Attorney General (AGO)** state the AGO assumes that the costs of this proposal are unknown in that the AGO assumes it will have to provide direction to state agencies as to what medical information is protected and in which contexts. In addition, the AGO anticipates that it will incur costs to litigate claims of misuse of private health information. The AGO assumes unknown costs of less than \$100,000 annually.

**This proposal may result in an increase in Total State Revenue.**

|   |                     |         |         |
|---|---------------------|---------|---------|
| <u>FISCAL IMPACT - State Government</u> | FY 2004<br>(10 Mo.) | FY 2005 | FY 2006 |
|---|---------------------|---------|---------|

**GENERAL REVENUE FUND**

Costs - Office of Attorney General

|                  |                                      |                                      |                                      |
|------------------|--------------------------------------|--------------------------------------|--------------------------------------|
| Litigation costs | <u>(Unknown less than \$100,000)</u> | <u>(Unknown less than \$100,000)</u> | <u>(Unknown less than \$100,000)</u> |
|------------------|--------------------------------------|--------------------------------------|--------------------------------------|

|   |   |   |   |
|---|---|---|---|
| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b> | <b><u>(Unknown less than \$100,000)</u></b> | <b><u>(Unknown less than \$100,000)</u></b> | <b><u>(Unknown less than \$100,000)</u></b> |
|---|---|---|---|

|   |                     |         |         |
|---|---------------------|---------|---------|
| <u>FISCAL IMPACT - Local Government</u> | FY 2004<br>(10 Mo.) | FY 2005 | FY 2006 |
|---|---------------------|---------|---------|

|  |            |            |            |
|--|------------|------------|------------|
|  | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
|--|------------|------------|------------|

FISCAL IMPACT - Small Business

This proposal may impact small businesses if they incur administrative penalties as a result of disclosing nonpublic personal health information.

DESCRIPTION

This proposal prohibits the disclosure of non-public health information. A new Section 191.890 is created to define terms such as "federal privacy rules", "health information", and "nonpublic

personal health information".

This proposal prohibits the disclosure of personal health information, unless pursuant to written authorization, for the following purposes: 1) for profit; 2) for marketing of goods or services; 3) to aid in an employment decision; 4) for decisions regarding a persons' credit; or 5) to deliberately or maliciously cause harm to the person to whom the information pertains.

Any person who knowingly violates the provisions of this section will be charged an administrative penalty of up to \$500. Penalties may be assessed by an agency with primary regulatory authority or by the Attorney General. Penalties must be paid into the school fund. The Director of the Department of Insurance shall enforce this act.

Licenses (insurance companies) complying with HIPAA privacy rules will be deemed in compliance with this proposal. Until April 14, 2003, non-licenses subject to federal law will be in compliance with this act upon a showing of good faith. Personal health information, however, may not be disclosed for marketing purposes even if compliance is established. Licenses complying with the model regulation, "Privacy of Consumer Financial and Health Information Regulation", will also be deemed in compliance.

This proposal does not apply to information disclosed for the following purposes: 1) if prior written consent is given; 2) if disclosure is pursuant to state or federal law; 3) for consumer reporting purposes; 4) in connection with the transfer of a business, operating unit, or loans if the disclosure is not the primary reason for the transfer. 5) for purposes not specifically addressed in this section; or 6) if information was originally collected for certain marketing purposes

This proposal does not apply to the conduct of medical research as defined in 45 CFR part 46.

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 Economic Development -  
Division of Professional Registration  
Department of Transportation

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Department of Mental Health  
Department of Health and Senior Services  
Department of Social Services  
Missouri Consolidated Health Care Plan  
Department of Insurance  
Department of Public Safety -  
    Missouri Highway Patrol  
Missouri Department of Conservation



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