

**COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION**

FISCAL NOTE

L.R. No.: 1789-01
Bill No.: HB 536
Subject: Health Care; Health Care Professionals; Health, Public; Public Records, Public Meetings; Physicians
Type: Original
Date: March 7, 2003

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS
--

FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services, Department of Insurance, Missouri Consolidated Health Care Plan** and **Department of Health and Senior Services** assume the proposal will 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 the proposal on the 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.

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.

ASSUMPTION (continued)

Officials from the **Department of Transportation** state assuming compliance with the Health

Insurance Portability and Accountability Act (HIPAA) privacy rules and assuming disclosure for other than those listed in Subsection 2, this proposal will have no fiscal impact on the Missouri Highway and Transportation Commission (MHTC) or on the Highway & Patrol Medical Plan.

Officials from the **Department of Economic Development - Division of Professional Registration** state having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), DED is of the opinion that this legislation in its present form, has no fiscal impact. **NOTE:** However, if, in accordance with Section 191.890(4) any licensee knowingly violates the provisions of this section, he/she shall be assessed an administrative penalty of not more than five hundred dollars for each violation, which in turn would increase total state revenue (School Fund).

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 increase Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (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>
------------------	--------------------------------------	--------------------------------------	--------------------------------------

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

<u>FISCAL IMPACT - Local Government</u>	FY 2004 (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 selling or any disclosure of personal health information to a third party for the purpose of: (1) marketing a product or service; (2) making employment decisions; (3) determining credit worthiness; or (4) maliciously causing harm to the person. The bill does not apply in cases where the person cannot be identified from the information or when disclosure of this information is necessary to comply with any other law or court order. The person may provide written authorization for the disclosure of his or her information, which will be valid for one year. The proposal exempts consumer reporting agencies and debt collectors and exempts businesses that are providing this information as part of the sale or merger of a business. Insurance entities are deemed to be in compliance with the bill upon either: (1) demonstrating a good faith effort to comply with federal privacy rules; or (2) complying with model legislation adopted by the National Association of Insurance Commissioners. The Department of Insurance will enforce the proposal regarding insurance entities, who may be sued for unfair trade practices. All other violators will be prosecuted by the state agency with primary regulatory authority over the person or, if there is none, the Attorney General. Persons in violation may be fined up to \$500 for each violation. These fines will be paid into the school fund.

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
Department of Transportation
Department of Mental Health

L.R. No. 1789-01
Bill No. HB 536
Page 5 of 5
March 7, 2003

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



MICKEY WILSON, CPA
DIRECTOR
MARCH 7, 2003