

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0647-05
Bill No.: Truly Agreed To and Finally Passed SS for HCS for HB 213
Subject: Abortion; Health Care Professionals
Type: Original
Date: June 1, 2011

Bill Summary: This legislation prohibits abortion for viable unborn children who are twenty weeks or more in gestational age.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Less than \$102,760)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$102,760)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 188.015 & 188.030:

Officials from the **Office of the State Courts Administrator, Missouri State Highway Patrol, Missouri Senate, Office of Prosecution Services, Missouri State Treasurer,** and the **Office of Administration-Budget and Planning** each assume the proposal would have no fiscal impact on their respective agencies.

In response to a previous version of this proposal, officials from the **Office of the State Public Defender** and the **Missouri House of Representatives** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** assumes the proposed legislation would require the Board of Registration for the Healing Arts to create a way for reporting the required information on abortions. This reporting method could be accomplished under existing appropriation. However, if the board is expected to review each report to determine if they are in agreement with the action taken, then it would require the board to obtain copies of medical records and have these records reviewed by a member of board staff and then reviewed by the full board. This would require additional FTE and expenses which would be requested through the appropriation process.

Officials from the **Department of Social Services (DSS)** states although this proposal creates the possibility for an increased number of extremely premature infants, who would require expensive medical care, the proposal does not address who would have the responsibility for the care and custody of such children. Therefore, no direct fiscal impact to the DSS can be established.

Officials from the **Department of Health and Senior Services (DHSS)** states section 188.030 requires additional data elements to be added to the Report of Induced Termination of Pregnancy form. It is estimated that an ITSD programmer will be needed for 40 hours in order to modify the current database to allow entry of the additional items required by the proposed legislation. This will result in a one-time cost of \$2,760 (\$69/hour x 40 hours) in FY 2012.

Expenses incurred for the revision of the form will be negligible and will therefore be absorbed through current funding. Printing costs will not be incurred as the form will be made available to providers on a secured website.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the DOC, cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY10 average of \$16.40 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the Department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Office of the Attorney General** assumes that costs of implementation could be absorbed with existing resources. However, due to the nature of the provision, AGO assumes this proposal has the potential to be the subject of state and federal litigation. Therefore, potential costs are unknown but AGO assumes will be less than \$100,000.

Oversight assumes, because the potential for litigation is speculative, that the AGO will not incur significant costs related to this proposal. If a fiscal impact were to result, the AGO may request additional funding through the appropriations process.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
<u>Costs - Department of Health and Senior Services</u>			
Program Costs	<u>(\$2,760)</u>	<u>\$0</u>	<u>\$0</u>
<u>Costs - Department of Corrections</u>			
Incarceration/probation costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Less than \$102,760)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Sections 188.015 & 188.030: The proposed legislation revises the definition of "abortion" to include using or prescribing any medicine, instrument, or device with the intent to destroy the life of an unborn child and terminating a pregnancy with an intent other than to increase the probability of a live birth or to remove a dead or dying unborn child. No abortion of a viable unborn child can be performed or induced except in the case of a medical emergency where the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, illness, or injury or when the continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Except in the case of a medical emergency, a physician must, prior to performing or inducing an abortion, determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards.

FISCAL DESCRIPTION (continued)

If a physician determines that the gestational age of the unborn child is 20 weeks or more, he or she must, prior to performing or inducing an abortion, determine if the unborn child is viable by performing medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and enter that information in the woman's medical record. If a physician determines the gestational age of the unborn child is 20 weeks or more and the unborn child is not viable and an abortion is performed or induced, the physician must report these findings and determinations and the reasons for the determinations to the health care facility in which the abortion is performed and to the State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration. The physician must also enter the determinations in the woman's medical records and in the individual abortion report submitted to the Department of Health and Senior Services. If a physician determines that the unborn child is viable, the physician cannot perform or induce an abortion except in the case of a medical emergency as specified in the legislation.

A physician must certify in writing the medical threat posed to the life of the pregnant woman or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman before the physician can proceed with performing or inducing an abortion on a woman when it has been determined that the unborn child is viable.

Before a physician may perform or induce an abortion on a woman carrying an unborn child that has been determined to be viable, he or she must:

(1) Obtain the agreement of a second physician who has knowledge of accepted obstetrical and neonatal practices and standards and concurs that the abortion is necessary to preserve the life of the pregnant woman or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. The second physician must also report the reasons and determinations to the health care facility and the department and enter that information in the woman's medical record and the individual report to the Department of Health and Senior Services. The second physician cannot have any legal or financial affiliation or relationship with the physician performing or inducing the abortion; however, this will not apply to a physician whose affiliation or relationship is the result of being employed by or having staff privileges at the same hospital;

(2) Use the available method or technique of abortion that is most likely to preserve the life or health of the unborn child;

FISCAL DESCRIPTION (continued)

(3) Certify in writing the available methods considered and the reasons for choosing the method used; and

(4) Have in attendance at the abortion a second physician who is responsible for taking control of and providing immediate medical care for a child born as a result of the abortion.

Any person who knowingly performs or induces an abortion of an unborn child in violation of these provisions will be guilty of a class C felony and subject to imprisonment for not less than one year and a fine of between \$10,000 and \$50,000. Any physician licensed in this state who pleads guilty to or is found guilty of performing or inducing an abortion of an unborn child in violation of these provisions can have his or her license suspended or revoked by the State Board of Registration for the Healing Arts. Any licensed hospital or ambulatory surgical center that knowingly allows an abortion to be performed or induced in violation of these provisions can be subject to the suspension or revocation of its license.

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 the Attorney General
Office of Administration-Budget and Planning
Department of Insurance, Financial Institutions and Professional Registration
Office of the State Public Defender
Department of Health and Senior Services
Department of Social Services
Missouri House of Representatives
Office of the State Courts Administrator
Office of Prosecution Services
Missouri State Highway Patrol
Department of Corrections
Missouri State Treasurer
Missouri Senate



L.R. No. 0647-05
Bill No. Truly Agreed To and Finally Passed SS for HCS for HB 213
Page 8 of 8
June 1, 2011

Mickey Wilson, CPA
Director
June 1, 2011

SEC:LR:OD (12/02)