

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0863-01
Bill No.: HB 636
Subject: Health Care; Health Care Professionals; Health, Public; Department of Health and Senior Services
Type: Original
Date: March 8, 2011

Bill Summary: This legislation establishes the Compassionate Assistance for Rape Emergencies (CARE) Act which requires hospitals and health care facilities to provide emergency contraception to sexual assault victims.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Unknown but Greater than \$101,600)	(Unknown but Greater than \$101,640)	(Unknown but Greater than \$101,681)
Total Estimated Net Effect on General Revenue Fund	(Unknown but Greater than \$101,600)	(Unknown but Greater than \$101,640)	(Unknown but Greater than \$101,681)

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 7 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	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Sections 191.717 & 191.718:

Officials from the **Department of Social Services** and the **Department of Insurance, Financial Institutions and Professional Registration** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can 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. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Health and Senior Services (DHSS)** states section 191.718.3 requires DHSS to develop, prepare, and produce informational materials relating to emergency contraception for the prevention of pregnancy for distribution to sexual assault victims in any hospital or health care facility.

According to the Uniform Crime Reporting Program, there was 1,605 rapes reported in Missouri in 2008. There are currently 122 hospitals in Missouri that report having emergency departments. The Department is unsure of the number of urgent care facilities attached to hospitals as urgent care facilities are not licensed in Missouri. The Department assumes each hospital and health care facility will be provided a general supply of brochures each year. To

ASSUMPTION (continued)

assure adequate brochures for hospitals and urgent care facilities statewide, 10,000 brochures would be printed. The estimate for printing a tri-fold, four-process color brochure is \$0.10 per brochure. The total cost for printing 10,000 brochures is \$1,000 (10,000 brochures x \$0.10 per brochure). The Department estimates that packets of brochures will be mailed to approximately 200 hospitals and health care facilities at a cost of approximately \$600 (200 packets x \$3.00 per packet).

Section 191.718.5 states, "The department of health and senior services shall respond to complaints and shall periodically determine whether hospitals and health care facilities are complying with the provisions of this section." The definition of "health care facility" as defined in proposed Section 191.717.2(3) is "any urgent care center or facility that offers treatment for patients during normal business, after-business, or weekend hours and that is affiliated with a licensed hospital". This is a broad definition and could include various facilities such as outpatient clinics, urgent care centers, and in some cases physician offices. The Department is also unsure of the meaning of the term "affiliated"; this could be construed to mean "owned" by the hospital, "operated" by the hospital, etc. The Division of Regulation and Licensure currently inspects hospitals and responds to complaints about hospital care, but does not inspect or investigate complaints for all of the other health care facilities that may fall under the definition of "health care facility". The Department assumes that we would be required to investigate complaints and periodically determine compliance at these additional facilities. The Department is unable to determine how many facilities that are currently not regulated that would fall under the definition of health care facility included in this legislation.

The Department has no way to determine how many instances of emergency care provided to sexual assault victims would result in a complaint against a hospital or health care facility. Based on the current average time to complete a complaint investigation, any such complaints received would require approximately 67 hours each to investigate.

Based on the above uncertainties, the Division of Regulation and Licensure believes the fiscal impact of this section would be (Unknown, > \$100,000).

The proposed legislation states, "shall periodically determine whether hospitals and health care facilities are complying with the provisions of this section." The Department is unsure how often investigations of hospitals and health care facilities will be performed. According to proposed Section 191.718.6, the Department is required to promulgate rules to implement the provisions of the proposal. DHSS assumes that existing hospital regulations would be revised to include the frequency that investigations will be performed.

ASSUMPTION (continued)

Section 191.718.5.(1) and (2) requires the DHSS to impose fines on hospitals or health care facilities for non-compliance with the provisions of the legislation. A \$5,000 fine would be imposed for each woman who is denied information about emergency contraception or who is not offered or provided emergency contraception; a \$5,000 fine would be imposed for failure to comply with the provisions of the legislation; an additional \$5,000 fine would be imposed for every 30 days that the hospital or health care facility is not in compliance. The Department is unable to determine the number of instances in which a hospital or health care facility would not be in compliance and therefore determines the amount of revenue generated to be unknown. In keeping with the requirements of Article IX of the Missouri Constitution, the Department assumes that any administrative penalties collected pursuant to this legislation would need to be deposited in the county school fund.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
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GENERAL REVENUE FUND

Costs - Department of Health and Senior Services

Program Costs	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)	(Unknown but Greater than \$100,000)
Printing Brochure Cost	(\$1,000)	(\$1,025)	(\$1,051)
Postage	(\$600)	(\$615)	(\$630)
<u>Total Costs - DHSS</u>	<u>(Unknown but Greater than \$101,600)</u>	<u>(Unknown but Greater than \$101,640)</u>	<u>(Unknown but Greater than \$101,681)</u>

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown but Greater than \$101,600)</u>	<u>(Unknown but Greater than \$101,640)</u>	<u>(Unknown but Greater than \$101,681)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
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POLITICAL SUBDIVISIONS

<u>Income - School Districts</u>			
Income from fines	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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FISCAL IMPACT - Small Business

Sections 191.717 & 191.718:

Section 191.718.1 of the proposed legislation requires any hospital and health care facility that provides emergency care to sexual assault victims to provide information to such victims regarding emergency contraception, as well as provide the complete regimen of emergency contraception immediately at the hospital or health care facility to each sexual assault victim that requests it. This could cause a potential impact on urgent care centers and other facilities falling under the definition of "health care facility".

FISCAL DESCRIPTION

Sections 191.717 & 191.718:

The proposed legislation establishes the Compassionate Assistance for Rape Emergencies (CARE) Act which requires that the standard of care for any health care facility that provides emergency care to sexual assault victims will be to give a victim information regarding emergency contraception, inform the victim of her option to be provided emergency contraception, and provide a complete regimen of emergency contraception if requested. The health care provider must follow federal Department of Justice protocols on HIV/STI screening and prophylactic treatment. An emergency health care facility must ensure that the victim is treated by a provider who has medically and factually accurate, objective information about emergency contraception.

The Department of Health and Senior Services must:

- (1) Develop, prepare, and produce informational materials regarding emergency contraception

FISCAL DESCRIPTION (continued)

for the prevention of pregnancy for distribution in any health care facility in the state. The materials must be medically and factually accurate and objective; clearly written and comprehensible; provide an explanation of the use, safety, efficacy, and availability of emergency contraception; and explain that it does not cause an abortion; and

(2) Respond to complaints and periodically perform compliance checks on emergency health care facilities. If the department determines that a facility is not in compliance, it must impose a \$5,000 administrative penalty for each woman who is denied the informational materials or who is not offered emergency contraception and a \$5,000 administrative penalty for failure to comply with the provisions of the bill with an additional \$5,000 penalty for every 30 days of non-compliance.

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
Department of Insurance, Financial Institutions and Professional Registration
Department of Health and Senior Services
Department of Social Services
Office of the Secretary of State



Mickey Wilson, CPA
Director
March 8, 2011