

HCS HB 1516 -- PROTECTIONS FOR VULNERABLE ADULTS AND CHILDREN
(Bruns)

COMMITTEE OF ORIGIN: Committee on Crime Prevention and Public Safety

This substitute changes the laws regarding protections for vulnerable adults and children. In its main provisions, the substitute:

(1) Changes the laws regarding infection control and specifies when incidents of ventilator-associated pneumonia must be included by the Department of Health and Senior Services in its quarterly infection incidence rate reports (Section 192.667, RSMo);

(2) Adds reducing the incidents of financial exploitation of the elderly to the public education and awareness program administered by the Department of Health and Senior Services (Section 192.925);

(3) Establishes the Evan de Mello Reimbursement Program within the departments of Health and Senior Services and Mental Health to provide financial assistance for the cost of transportation and ancillary services associated with the medical treatment of an eligible child. The program is the payer of last resort after all other available sources have been exhausted, and reimbursement is subject to appropriations. To be eligible for assistance under the program, a child must be suffering from a condition or impairment that results in severe physical illness or impairments, in need of transportation or ancillary services due to his or her condition, certified by a physician of the child's choice as a child who will likely benefit from medical services, and required to travel at least 100 miles for medical services and the child's parents or guardian are unable to pay the travel expenses. The departments must establish rules which include an application and review process, a cap on benefits that cannot be less than \$5,000 per recipient, and household income eligibility limits which cannot exceed 350% of the federal poverty level (Section 192.975);

(4) Transfers the Division of Aging from the Department of Social Services to the Department of Health and Senior Services (Section 192.2000);

(5) Transfers the powers, duties, and functions of the Board of Nursing Home Administrators from the Department of Social Services to the Department of Health and Senior Services (Section 192.2000.9);

(6) Revises the definition of "protective services" to mean a service provided by the state or other governmental or private organizations or individuals which are necessary for the eligible adult to meet his or her essential human needs (Section 192.2003);

(7) Grants immunity from civil and criminal liability for any person making a report of abuse or neglect to the Department of Health and Senior Services unless the person acts negligently, recklessly, in bad faith, or with malicious purpose (Sections 192.2103.5 and 192.2150.11);

(8) Defines "consumer," "in-home services," "misappropriation," "personal care attendant," "principal," "patient," "provider," and "resident" as they relate to abuse and neglect of the elderly, the disabled, and children (Section 192.2150);

(9) Requires any health service provider, health service vendor employee, personal care attendant, or any person having reasonable cause to believe that a patient or consumer has been a victim of misappropriation of a patient's money or property or has falsified documents verifying delivery of health care services to report the information to the Department of Health and Senior Services within 24 hours of discovering the act (Sections 192.2150.2 and 192.2150.3);

(10) Requires the Department of Health and Senior Services, upon receipt of an imminent danger report, to initiate a thorough investigation promptly, but removes the 24-hour time requirement. If an investigation indicates a crime has occurred, the appropriate law enforcement agency and the prosecutor must be notified. The department must notify the resident's legal representative of the report and investigation status when it involves a resident who has been appointed a guardian and/or conservator or who is incapacitated and resides at a state-licensed facility. The department may also notify the resident's family members or guardians (Sections 192.2150.6 and 192.2150.7);

(11) Requires the Department of Health and Senior Services to keep confidential the names of individuals submitting abuse and misappropriation reports unless the complainant agrees to the disclosure of his or her name; it is necessary to prevent further abuse and neglect, misappropriation of funds, or document falsification; the name of the complainant is lawfully subpoenaed; the release of a name is required by the Administrative Hearing Commission; or the release of a name is requested by the Department of Social Services for the purpose of licensure under Chapter 210 (Section 192.2150.9);

(12) Requires the Department of Health and Senior Services to add persons who have falsified documents verifying service delivery to consumers or have misappropriated property or moneys belonging to consumers to the employee disqualification list (Section 192.2150.12);

(13) Protects a patient and the patient's family members or an employee from eviction, harassment, or retaliation due to the filing of a report of a violation or suspected violation of the provisions of the substitute (Section 192.2150.13);

(14) Requires potential patients and consumers whose services are funded by the MO HealthNet Program to be checked against the sexual offender registry and requires the Department of Health and Senior Services to notify providers at the time of referral if a patient or consumer is on the registry (Section 192.2150.15);

(15) Specifies that any person failing to file a required report within the time guidelines and any person or provider who misuses or diverts the consumer's use of any personal property or money or falsifies service delivery documents will be guilty of a class A misdemeanor. Any provider or employee who knowingly conceals abuse or neglect that results in the death or serious injury of a patient will be guilty of a class D felony (Sections 192.2153.1 - 192.2153.3);

(16) Authorizes the Department of Health and Senior Services to assess a \$1,000 fine on any provider who willfully and knowingly fails to report known abuse by an employee (Section 192.2153.4);

(17) Specifies that any person or entity who unlawfully discloses information from the employee disqualification list will be guilty of an infraction; and upon request from the Division of Employment Security within the Department of Labor and Industrial Relations, the Department of Social Services must provide copies of employee investigation reports of those on the list. Individuals on the list cannot be paid from public moneys for personal care assistant services (Sections 192.2153.11 - 192.2153.13);

(18) Requires health care providers or employment agencies to check with the Department of Health and Senior Services to see if a full- or part-time applicant for employment which involves consumer contact is on the employee disqualification list prior to hiring the applicant (Section 192.2178.3);

(19) Prohibits, as of August 28, 2008, a provider from hiring any person with a disqualifying history unless the person has submitted an approved good cause waiver. Providers cannot

continue to employ people who were employed prior to August 28, 2008, with disqualifying backgrounds after March 1, 2009, unless the person submits an approved good cause waiver prior to January 1, 2009. An employer who knowingly hires a person who is a registered sexual offender on or after August 28, 2008, will be guilty of a class A misdemeanor (Sections 192.2178.7 and 192.2178.8);

(20) Specifies that a consumer-directed service consumer or hospice will be guilty of a class A misdemeanor if it does not request a background screening check from the family care safety registry prior to allowing an employee to have contact with an in-home patient (Section 192.2178.9);

(21) Requires, beginning January 1, 2009, every hospital licensed in the state to develop a methicillin-resistant staphylococcus aureus (MRSA) control program to isolate infected patients; reduce the risk of MRSA transmission; establish procedures, protocols, and education for staff known to be MRSA-colonized or MRSA-infected; and establish an infection-control intervention protocol (Section 197.150);

(22) Clarifies existing language regarding the installation of sprinkler systems in long-term care facilities (Section 198.074);

(23) Allows facilities that have submitted a plan for compliance for the installation of a commercial sprinkler system to be eligible for a loan from the Department of Health and Senior Services (Section 198.074.4);

(24) Allows local fire protection districts or fire departments that are deemed qualified by the State Fire Marshal to conduct fire safety inspections of long-term care facilities for compliance with state statutes regarding the installation of sprinkler systems (Section 198.074.9);

(25) Adds, subject to appropriations, home nursing visits and follow-up care as needed until an infant's second birthday for certain at-risk newborns to the list of covered services under the MO HealthNet Program. The MO HealthNet Division within the Department of Social Services is required to request the appropriate waivers or state plan amendments from the federal Department of Health and Human Services to provide these services as a three-year pilot project in the counties of Buchanan, Greene, and Jackson (Section 208.152);

(26) Changes the laws regarding the assistance provided to nursing home residents who are transitioning back into their communities. Subject to appropriations, MO HealthNet-eligible nursing home residents will receive a one-time transition grant

of up to \$2,400, administered by the Division of Senior and Disability Services within the Department of Health and Senior Services, to spend on housing costs associated with moving a senior citizen or disabled person from a nursing home back to a residence within their community. The division will work with the Department of Social Services to generate additional funding for the transition grants (Section 208.819);

(27) Prohibits any state or federal funding for personal care assistance services if the attendant is on the employee disqualification list; is a registered sexual offender; or has a disqualifying criminal history, unless a good cause waiver is obtained (Section 208.909.4);

(28) Requires the Children's Division within the Department of Social Services to make a good faith attempt to contact and place a child with a grandparent if the division deems the placement is in the best interest of the child when a child must be removed from his or her primary caretaker's home in the case of an emergency placement. Prior to contacting the grandparent, the division must care for any physical health needs of the child. The grandparent must comply with the emergency background check requirements. If contact with a grandparent cannot be made within three hours of the division determining an emergency placement is necessary, the child may be placed in a foster home. If placed in a foster home, the division must continue to attempt to contact the child's grandparents during the initial 24-hour period after an emergency placement was deemed necessary. When a court determines that a child must be placed in a foster home, the division must make a good faith attempt to contact the grandparents of the child to determine if they wish to be considered and given first consideration for foster home placement of the child (Sections 210.305 and 210.565);

(29) Defines "related personal care" as care provided for a person with a physical or medical disability by an adult relative as it relates to the Family Care Safety Act (Section 210.900.2); and

(30) Requires any person responsible for the care of a person 60 years of age or older who has cause to suspect that the person has been abused, neglected, or financially exploited by a person, firm, or corporation to make a report to the Department of Health and Senior Services (Section 565.188.1).

FISCAL NOTE: Estimated Cost on General Revenue Fund of Unknown but Greater than \$850,548 in FY 2009, Unknown but Greater than \$863,640 in FY 2010, and Unknown but Greater than \$881,936 in FY 2011. Estimated Income on Other State Funds of \$3,234,000 in FY 2009, \$501,600 in FY 2010, and \$501,600 in FY 2011.