

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0595-02
Bill No.: HB 354
Subject: Business and Commerce; Merchandising Practices; Banks and Financial Institutions; Social Services Department; Elderly; Disabilities
Type: Original
Date: January 30, 2019

Bill Summary: This proposal changes the law regarding the financial protection of vulnerable populations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** state:

In calendar years 2017 and 2018, approximately 3 Respondents were penalized under Section 409.4-412 for a total amount of approximately \$400,000 and approximately 51 Respondents were penalized under Section 409.6-604 for a total amount of approximately \$1,672,000. The money collected is forwarded to the state treasury for the benefit of the county and township school funds in accordance with Article IX, Section 7 of the Missouri Constitution.

The Securities Division does not estimate an increase in the number of penalties imposed, but the penalties themselves would increase, so the gross amount would be higher.

Oversight notes the bill changes the maximum amount of civil penalties that may be assessed and that there may be an increase in the gross amount collected pursuant to Section 409.4-412 and 409.6-604. Without additional information, and since this is a maximum amount possible, Oversight will reflect a zero to unknown amount of additional penalty revenue to school districts.

SOS also assumes 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 \$5,000. 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 require additional resources.

Officials from the **Department of Health and Senior Services (DHSS)** state:

409.615.3 (3) "The director of the department of health and senior services, after notifying the commissioner of securities, may enter an order to extend the refusal of a disbursement of

ASSUMPTION (continued)

transaction for the time necessary to protect the qualified adult.

Subsequent to the issuance of an order under subdivision (2) or (3) of this subsection, the agency that issued the order shall conduct a review of the circumstances every thirty days to determine if the order extension should remain in effect."

The Office of General Counsel for the DHSS currently works on processing guardianship/conservatorship to file with the courts for a public administrator/guardian to be assigned by the court to help protect citizens from financial exploitation. DHSS currently has three attorneys that work on this type of request with this being a third to a half of their workload.

It is assumed that this proposed legislation may result in additional filings, but is assumed to be part of the normal workload of what these three positions currently are responsible for. If the cases result in an injunction being filed, the case would be handled by the Attorney General's Office.

The department anticipates being able to absorb these costs. However, until the FY2020 budget is final, the department cannot identify specific funding sources.

Oversight does not have any information to the contrary. Oversight assumes that DHSS will be able to handle any potential increase of workload with existing staff and resources.

Officials from the **Department of Social Services, Office of State Courts Administrator, Department of Insurance, Financial Institutions and Professional Registration, and Office of Administration-Administrative Hearing Commission** each assume the proposal will have no fiscal impact on their organization.

Oversight notes that the Department of Social Services, Office of State Courts Administrator, Department of Insurance, Financial Institutions and Professional Registration, and Office of Administration-Administrative Hearing Commission have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
SCHOOL DISTRICTS			
<u>Income</u> - potential increase in penalties	<u>\$0 to</u> <u>Unknown</u>	<u>\$0 to</u> <u>Unknown</u>	<u>\$0 to</u> <u>Unknown</u>
ESTIMATED NET EFFECT TO THE SCHOOL DISTRICTS	<u>\$0 to</u> <u>Unknown</u>	<u>\$0 to</u> <u>Unknown</u>	<u>\$0 to</u> <u>Unknown</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill adds broker-dealers and investment advisors to the individuals covered under the Senior Savings Protection Act. Broker-dealers and investment advisors may notify the Department of Health and Senior Services, the Commissioner of Securities, or an immediate family member of his or her reasonable belief that financial exploitation of an vulnerable person has occurred. The department or Commissioner may provide information on the vulnerable person to the reporting individual upon request.

In the instance of a reasonable belief of financial exploitation, the bill allows a broker-dealer, investment advisor, or associated person to refuse a transaction from the account of the vulnerable person. To refuse a transaction or disbursement, the brokerdealer, investment advisor, or associated person must send written notice to the vulnerable person. Following the refusal of a transaction or disbursement, the Commissioner or department may enter an order to extend the refusal for the time necessary to protect the vulnerable person, but the agency issuing the order must review the circumstances every 30 days.

The bill specifies a representative of an investment advisor who complies with the Senior Savings Protection Act will be immune to civil liability under the Act.

FISCAL DESCRIPTION (continued)

An investment advisor must provide access to records relevant to the suspected financial exploitation to the department, the Commissioner, or law enforcement.

The Commissioner must update their training website to include resources to assist investment advisors and their representatives in the prevention and detection of financial exploitation.

This bill raises the maximum civil penalty under the Senior Savings Protection Act from \$5,000 to \$25,000 for each violation.

The bill requires the Commissioner to file an action or issue an order within five years against a person who violates provisions regarding the offer, sale, or purchase of a security. The Commissioner may impose a civil penalty up to \$25,000 for each violation and may impose an additional penalty of \$15,000 if the victim was an elderly or disabled person. The Commissioner must file an action within 20 years for other violations of the Missouri Securities Act.

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

Department of Health and Senior Services
Office of the Secretary of State
Department of Social Services
Office of State Courts Administrator
Department of Insurance, Financial Institutions and Professional Registration
Office of Administration-Administrative Hearing Commission



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January 30, 2019

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January 30, 2019

L.R. No. 0595-02
Bill No. HB 354
Page 7 of 7
January 30, 2019

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