

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0595-03  
Bill No.: Perfected HCS for HB 354  
Subject: Business and Commerce; Merchandising Practices; Banks and Financial Institutions; Social Services Department; Elderly; Disabilities  
Type: Original  
Date: February 20, 2019

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

**FISCAL SUMMARY**

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

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

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

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

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

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

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

## 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.

409.610 requires the department to provide information regarding a qualified adult to the reporting qualified individual or investment advisor representative upon request, subsequent to notifying the department of potential financial exploitation of the qualified adult. The Department of Health and Senior Services, Division of Senior and Disability Services, Section of Adult Protective Services, Special Investigations Unit (SIU) is responsible for investigating reports of financial exploitation.

An Adult Protective Community Worker II (average salary \$35,116) would be responsible to provide the information requested to the qualified individual. The SIU investigates on average 100 reports of financial exploitation of this nature and anticipates a 20% increase in these types of reports. The proposed language would require DHSS to provide additional information on every financial exploitation report. Providing the requested information to the qualified individual is estimated to take 30 minutes per report. Assuming 120 reports ( $100 \times 0.20 = 20$ ;  $100 + 20 = 120$ ), it is estimated providing this information to qualified individuals will take an additional 60 hours, or 0.03 FTE ( $60 \text{ hours} \div 2,080 \text{ hours per year} = 0.03$ ) for total personal service cost of \$877.90 ( $\$35,116 \times 0.03 \times 10/12$ ) for FY20 and \$1,053.48 ( $\$35,116 \times 0.03$ ) in subsequent years.

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

ASSUMPTION (continued)

**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** 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><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
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**SCHOOL DISTRICTS**

<u>Income</u> - potential increase in penalties §409.4-412 & §409.6-604	<u><b>\$0 to Unknown</b></u>	<u><b>\$0 to Unknown</b></u>	<u><b>\$0 to Unknown</b></u>
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<b>ESTIMATED NET EFFECT TO THE SCHOOL DISTRICTS</b>	<u><b>\$0 to Unknown</b></u>	<u><b>\$0 to Unknown</b></u>	<u><b>\$0 to Unknown</b></u>
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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

FISCAL DESCRIPTION (continued)

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 broker-dealer, 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.

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



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