

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (07-19)**

Subject

Initiative petition from the Elliot Institute regarding a proposed new chapter to Title XXXVI of the Missouri Revised Statutes relating to abortions. (Received November 6, 2007)

Date

November 26, 2007

Description

This proposal would add a new chapter to Title XXXVI of the Missouri Revised Statutes. This new chapter provides a definitional section, screening requirements, and civil remedies related to abortions.

The proposal is to be voted on in November, 2008.

Public comments and other input

The State Auditor's Office requested input from the **Attorney General's Office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's Office/Office of Administration**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Office of State Courts Administrator**, the **Department of Transportation**, the **Missouri Senate**, the **Secretary of State's Office**, the **Office of the State Public Defender**, the **State Treasurer's Office**, **Boone County**, **Jackson County**, **St. Louis County**, the **City of Columbia**, the **City of Kansas City**, the **City of St. Louis**, the **City of Springfield**, **Hannibal School District #60**, **Rockwood R-VI School District**, the **University of Missouri**, **St. Louis Community College**.

Assumptions

Officials from the **Attorney General's Office** indicated the proposal would not directly affect their office. However, they assumed that because this proposal has the potential to be the subject of state and federal litigation, potential costs are unknown.

Officials from the **Department of Economic Development** assume no fiscal or administrative impact from the proposal.

The **Department of Health and Senior Services** indicated no impact as a result of this initiative petition.

The **Department of Insurance, Financial Institutions and Professional Registration** indicated this proposal will have no cost to the department.

The **Department of Mental Health** stated the proposal will have no impact on their department.

The **Department of Corrections** indicated no impact on their agency.

The **Department of Labor and Industrial Relations** stated the proposal does not have a fiscal impact on their department.

The **Department of Revenue** indicated the proposal would not have a fiscal impact on their department.

The **Department of Public Safety** indicated there is no fiscal impact for the department.

The **Department of Social Services** indicated the proposal was another version of the initiative petition that seeks to enact the so-called "Prevention of Coerced and Unsafe Abortions Act." In fact, it imposes many new regulations on abortion providers, and in some cases, substitutes the physician's judgment for the women's judgment as to whether or not an abortion is advisable.

Before a physician recommends or performs an abortion, a licensed physician, licensed psychologist, licensed social worker, or licensed registered nurse must evaluate the woman to identify any pressures to consent to the abortion and the presence of any risk factors and inform her and the physician performing the abortion of the results of this evaluation in writing. The evaluation must include a checklist identifying both the positive and negative results of the evaluation for each risk factor. A copy of the evaluation must be retained in the patient's permanent record. The evaluator must provide a written statement to the patient and the physician certifying to the best of the person's knowledge that the patient understands and appreciates the significance of the risk factors discussed and is seeking the abortion without duress or coercion. The patient must be informed of each complication that is associated with each risk factor that was identified.

A physician cannot perform an abortion unless he or she determines that the abortion is "medically advisable" to prevent the imminent death or serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman or other health risks arising directly from the pregnancy itself. In addition, the physician must ensure that there are no other available options that can lessen the health risks associated with continuing the pregnancy to a degree less than the health risk associated with an induced abortion. It also delays the performing of the abortion by requiring a 48 hour period of "reflection time" for the patient.

It is an act of medical negligence to perform an abortion unless all of the above conditions are met and properly documented. In addition, there are several civil remedies set forth in the petition. Under certain circumstances, a woman can sue the physician who performed the abortion for wrongful death.

The requirements of the proposal will increase the administrative burden on abortion providers. In addition, the criminal and civil penalties could negatively impact the availability of abortions. However, the Department of Social Services pays for so few abortions through the Medicaid program that there will be no substantial fiscal impact to the Department.

Officials from the **Governor's Office/Office of Administration** indicated passage of this proposal should not result in additional costs or savings to their agencies.

The **Department of Conservation** indicated no fiscal impact expected to their agency as a result of proposal.

The **Missouri Senate** indicated there would be no fiscal impact on their agency as a result of the proposal.

Officials from the **Secretary of State's Office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. Funding for this item is adjusted each year depending upon the election cycle with \$1.6 million historically appropriated in even numbered fiscal years and \$100,000 appropriated in odd numbered fiscal years to meet these requirements. The appropriation has historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2007, at the August and November elections, there were 6 statewide Constitutional Amendments or ballot propositions that cost \$1.2 million to publish (an average of \$193,000 per issue). Therefore, the Secretary of State's office assumes, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements.

Officials from the **Office of the State Public Defender** indicated this proposal will have no significant impact on their office.

The **City of Columbia** indicated the proposal will not affect Columbia government operations.

The **City of Springfield** indicated the proposal will not have a cost impact (either positive or negative) to the City of Springfield.

Officials from the **Hannibal School District #60** indicated this proposal should not create any costs or savings to the district.

The State Auditor's Office did not receive a response from the **Department of Agriculture, Department of Elementary and Secondary Education, the Department of Higher Education, the Department of Natural Resources, the Missouri House of Representatives, the Office of State Courts Administrator, the Department of Transportation, the State Treasurer's Office, Boone County, Jackson County, St. Louis County, the City of Kansas City, the City of St. Louis, Rockwood R-VI School District, the University of Missouri, St. Louis Community College.**

Fiscal Note Summary

It is estimated this proposal will have no costs or savings to state or local governmental entities.