

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5697-09
Bill No.: HCS for SS for SB 749
Subject: Health Care; Health, Public; Federal-State Relations; Insurance, Medical;
Religion; Abortion
Type: Original
Date: May 14, 2012

Bill Summary: Provides protections for religious beliefs as to the imposition of certain health care services such as abortion, contraception, or sterilization.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Insurance Dedicated	Up to \$5,000	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	Up to \$5,000	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 2013	FY 2014	FY 2015
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture**, the **Office of Administration (OA)** - **Administrative Hearing Commission**, the **OA - Division of Budget and Planning**, the **Office of State Courts Administrator**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Revenue**, the **Department of Labor and Industrial Relations**, the **Department of Public Safety (DPS) - Missouri Gaming Commission**, the **DPS - Missouri Veterans Commission**, the **Office of the Governor**, the **Missouri Consolidated Health Care Plan**, the **Joint Committee on Public Employee Retirement**, the **Missouri Lottery Commission**, the **Missouri Department of Conservation**, the **Office of Prosecution Services**, the **Office of State Auditor**, the **Missouri Senate**, the **Office of State Treasurer**, **Linn State Technical College**, **Metropolitan Community College**, and **Northwest Missouri State University** assume the proposal will have no fiscal impact on their organizations.

Officials from the **DPS - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the potential fiscal impact of this proposal on their organization.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state insurers would be required to submit amendments to their policies to comply with the legislation. Policy amendments must be submitted to the department for review along with a \$50 filing fee. The number of insurance companies writing these policies in Missouri fluctuates each year. One-time additional revenues to the Insurance Dedicated Fund are estimated to be up to \$5,000.

Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews, the DIFP will need to request additional staff to handle the increase in workload.

Officials from the **Office of 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 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. **The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS**

ASSUMPTION (continued)

recognizes this is a small amount and does not expect that additional funding would be required to meet these costs. However, it is also recognized 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 within its 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.**

Officials from the **Department of Social Services (DSS) - MO HealthNet Division (MHD)** provide the following:

191.724, 191.1150, 191.1153, and 191.1156

This proposal provides that no employee, self-employed person or any other person, employer, health plan provider or sponsor, health care provider or any other entity shall be compelled to obtain coverage for or provide coverage for abortion, contraception, or sterilization in a health plan if such items or procedures are contrary to the religious beliefs or moral convictions of such employee, health care plan, provider or sponsor, or any other entity or person. In addition, the proposed legislation defines conscience as the religious, moral, or ethical principles held by a medical professional or a health care institution. For purposes of sections 191.1150 to 191.1168, a health care institution's conscience shall be determined by reference to its existing or proposed religious, moral, or ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other relevant documents. Section 191.1153 states a medical professional has the right not to participate, and no medical professional shall be required to participate in a medical service that violates his or her conscience.

In the provider participation section of the fee-for-service provider manuals, a MO HealthNet provider must comply with all laws, policies, and regulations of Missouri and the federal government. It further states that a provider must also comply with the standards and ethics of his or her business or profession to qualify as a participant in the program.

The Managed Care contracts include language which prohibits the health plan from requiring a provider to perform a service contrary to the provider's conscience and allows the provider to make a referral to another health care provider licensed to provide the appropriate care. Therefore, there is no fiscal impact to MO HealthNet.

376.1199

This section states any health carrier shall offer and issue to any person or entity purchasing a health benefit plan, a health benefit plan that excludes coverage for contraceptives and sterilization if the use or provision of such contraceptives or sterilization is contrary to the moral, ethical or religious beliefs or tenets of such person or entity.

ASSUMPTION (continued)

This section of the legislation will not impact Managed Care. MHD has language in the Managed Care contract indicating the health plans may not require a provider to perform any treatment or procedure which is contrary to the provider's conscience, religious beliefs, or ethical principles or policies. The health plan cannot prohibit a provider from making a referral to another health care provider licensed to provide care appropriate to the member's medical condition.

338.255

There is no fiscal impact on MO HealthNet from this section of the legislation. This proposal prohibits a licensed pharmacy from being required to carry or maintain in inventory any specific prescription or nonprescription drug or device.

Officials from the **University of Missouri** state no fiscal impact can be calculated at this time. Officials are not aware of any instances in which the University has taken actions that would violate the terms of this legislation as it is presently drafted. Nonetheless, creating a cause of action for health care providers that does not presently exist could expose the University to defense and liability costs in the event that a health care worker brings an action against the University or its officials under the statute. However, it is not possible to determine the likelihood of such actions or the amount of such defense or potential liability costs at this time.

Officials from **Missouri State University (MSU)** state costs might be anticipated from this legislation due to legal actions that might ensue and have to be defended from persons claiming that the money they pay for University Health Insurance and for the University's Taylor Health and Wellness Center should not be used to distribute contraception advice and/or devices since they have religious beliefs against the use of such advice and/or devices although it does not appear that it is the intention of this legislation to permit this.

Oversight assumes potential legal actions to be speculative and, therefore, assumes the proposal will have no fiscal impact on the University of Missouri or MSU.

Officials from the **City of Columbia** state there would be an administrative issue for their health plan if this proposal passes. It is unknown whether the City's third party administrator would charge extra for having, basically, four more plans/versions to track. The City cannot predict for sure, but experience shows that most state mandates result in additional costs of 1% to 2% (\$90,000 to \$180,000) of its health care plan costs. In addition, the proposal will cause additional work tracking which plan employees are in and additional costs to set up a process to inform people of their choices.

ASSUMPTION (continued)

In response to a previous version of this proposal, officials from the **City of Kansas City** stated that although no direct costs are incurred, there are indirect costs that may be incurred if the City chooses to include family planning services as well as abortion services in its employee benefits.

The proposed legislation provides:

No governmental entity, public official, or entity acting in a governmental capacity shall discriminate against or penalize a health plan, plan sponsor, health care provider, employer, employee, or other entity or person because of such plan's, sponsor's, provider's, employer's, employee's, entity's, or person's unwillingness, based on religious beliefs or moral convictions, to provide or obtain coverage for, participate in, or refer for, abortion, contraception, or sterilization in a health plan."

A separate, second health policy for family planning and abortion services may be required if those benefits are to be continued. Limitations on benefits for that plan will, in all likelihood, result in higher premiums than a program that offered those services as part of its overall benefits package.

For fiscal note purposes, **Oversight** assumes an unknown fiscal impact to local governments.

In response to a previous version of this proposal, officials from the **Department of Health and Senior Services**, the **Missouri National Guard**, the **Missouri State Tax Commission**, the **MoDOT & Patrol Employee's Retirement System**, **Parkway School District**, and **St. Louis County** assumed the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Attorney General**, the **Missouri Department of Transportation**, the **Office of the Governor**, the **Missouri House of Representatives**, the **Office of Lieutenant Governor**, the **Missouri State Employees' Retirement System**, and the **Office of State Public Defender** did not respond to **Oversight's** request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2013	FY 2014	FY 2015
---	---------	---------	---------

INSURANCE DEDICATED FUND

Income - DIFP

Form filing fees	<u>Up to \$5,000</u>	<u>\$0</u>	<u>\$0</u>
------------------	----------------------	------------	------------

ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>Up to \$5,000</u>	<u>\$0</u>	<u>\$0</u>
---	-----------------------------	-------------------	-------------------

<u>FISCAL IMPACT - Local Government</u>	FY 2013	FY 2014	FY 2015
---	---------	---------	---------

LOCAL GOVERNMENTS

Costs - Local Governments

Increase cost in health plan administration	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
--	------------------	------------------	------------------

ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>(Unknown)</u>	<u>(Unknown)</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

The provisions of the proposal provide that no governmental entity, public official, or entity acting in a governmental capacity shall discriminate against or penalize a health plan, plan sponsor, health care provider, employer, employee, or other entity or person because of such plan's, sponsor's, provider's, employer's, employee's, entity's, or person's unwillingness, based on religious beliefs or moral convictions, to provide or obtain coverage for, participate in, or refer for, abortion, contraception, or sterilization in a health plan.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

HWC:LR:OD

SOURCES OF INFORMATION

Department of Agriculture
Office of Administration -
 Administrative Hearing Commission
 Division of Budget and Planning
Office of State Courts Administrator
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services -
 MO HealthNet Division
Department of Public Safety -
 Missouri State Highway Patrol
 Missouri Gaming Commission
 Missouri Veterans Commission
Office of the Governor
Missouri Consolidated Health Care Plan
Joint Committee on Administrative Rules
Joint Committee on Public Employee Retirement
Missouri Lottery Commission
Missouri Department of Conservation
Office of Prosecution Services
Office of State Auditor
Missouri Senate
Office of Secretary of State
Office of State Treasurer
Missouri State Tax Commission
City of Columbia
MoDOT & Patrol Employees' Retirement System
Linn State Technical College
Metropolitan Community College
Missouri State University

HWC:LR:OD

SOURCES OF INFORMATION (continued)

Northwest Missouri State University
University of Missouri
Parkway School District

NOT RESPONDING: Office of Attorney General, Missouri Department of Transportation, Office of the Governor, Missouri House of Representatives, Office of Lieutenant Governor, Missouri State Employees' Retirement System, and Office of State Public Defender



Mickey Wilson, CPA
Director
May 14, 2012