

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4758-03  
Bill No.: SCS for SB 712  
Subject: Attorney General, State; Domestic Relations; Employees - Employers; Health Care; Department of Labor and Industrial Relations  
Type: Original  
Date: March 10, 2014

Bill Summary: This proposal would create a right to unpaid leave for employees that are affected by domestic violence.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Other State	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 11 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Other Federal *	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Net of additional costs and offsetting revenues.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator** assume this proposal would create a permissive leave category and they have no way of knowing how many employees would be taking the leave. Although there should be no cost, it is possible production could go down. If there is any significant increase in workload, it would be reflected in future budget requests.

Officials from the **Office of Attorney General** assumed in response to a previous version of this proposal that costs could be absorbed. However, if there is a significant increase in investigations they may seek an additional appropriation.

Officials from the **Office of Administration - Division of Personnel (OA)** assume this proposal would have some impact on the Personnel Advisory Board and the Division of Personnel. OA officials stated that administration of the proposed legislation would be complex and the amount of leave and duration of leave connects to those benefits currently available under the federal Family and Medical Leave Act (FMLA). Determinations would have to be made whether the employer counts time for a qualifying FMLA condition under FMLA or a Domestic Violence Leave. It appears that in some cases, the leave under this proposal would be limited by an employee's use of FMLA for other purposes. However, it does not appear that use of the proposed leave for circumstances not covered by the FMLA would count against the employee's FMLA entitlement. Rules would need to be updated to incorporate this new form of leave. OA would have to ensure agencies were made aware of this legislation, as well as inform them of the requirement to post this information in locations where employees have access to it.

Additionally, new programming and leave tracking procedures would need to be adopted and implemented in order to track this form of leave.

The proposal would enable an employee who is the victim, or who has a family or household member who is a victim of domestic violence to retain their health benefits when they are not being paid, which would result in costs to the employer. There would also be a loss of manpower for that time when the employee is allowed to be off work. Depending on the work involved and the employee's job duties, state agencies may need to assess the situation immediately and develop contingency plans to cover work load as necessary. This may require hiring temporary employees or requiring co-workers to work overtime to cover the work. These costs would vary so it is unknown what the fiscal impact would be on the employer.

ASSUMPTION (continued)

OA officials stated it is impossible at this point in time to estimate the cost of any necessary programming changes to the SAM II system, or to estimate the recurring costs for the necessary administrative and record keeping work by affected state agencies. OA is unable to estimate the frequency or duration of leave that could be requested under this proposal. OA would have to defer to the other state agencies for estimates of overtime costs related to the proposed legislation.

Officials from the **Office of Administration - Division of Budget and Planning** deferred to the Office of Administration - Division of Personnel for an estimate of the fiscal impact for a previous version of this proposal.

Officials from the **City of Kansas City** assumed there would likely be an undetermined cost to the City. The proposal would provide leave to an employee who is a victim of domestic violence to prepare for civil or criminal litigation. City officials stated it is unclear just what would constitute "preparing" for litigation. Additionally, the proposal would provide a duty to the employer to provide a reasonable accommodation to such employee, and city officials noted that reasonable accommodations often come at a cost to an employer, particularly when the accommodation sought is a piece of equipment, or possibly added security.

Finally, there is a provision for actual damages, in addition to reasonable attorney's fees, so there is the threat of litigation related to leave and accommodations for victims of domestic violence, and the potential for damages. However, because the City has absolutely no idea how many of its employees are victims of domestic violence, city officials stated they cannot predict or estimate the fiscal impact of this proposal. The proposal would provide that the employer could recover health care premiums it paid for the employee if he/she does not return to work following expiration of this leave. This could result in savings to the City, but one that would likely be negligible based on the likely number of employees to whom this would apply, and the administrative costs of collecting the premiums.

Officials from **Cole County** assumed a previous version of this proposal would have the potential to create a negative fiscal impact on their organization in the form of loss of productivity and expenses associated with premises modification or security services. County officials stated they could not provide an estimate of the cost.

ASSUMPTION (continued)

Officials from the **City of Columbia** assume this proposal would create an unfunded mandate, and would create administration responsibilities which could not be estimated. The cost of employee-only health insurance is \$200 for two weeks. The impact may not be significant but is difficult to determine.

Officials from the **Fulton School District** assumed a previous version of this proposal would have minimal fiscal impact on their organization.

Officials from the **Francis Howell School District** assumed the cost resulting from a previous version of this proposal would be \$950 for each full-time employee for whom the District must provide a substitute teacher.

Officials from the **Kansas City Public Schools** assumed a previous version of this proposal would have an undetermined negative impact on their organization from the necessity to fill unexpected daily absences in essential positions such as teaching, transportation, and security.

Officials from the **Office of Administration - Information Technology Services Division, St. Louis County**, and the **Platte County Directors of Elections** assume there would be no fiscal impact to their organization from this proposal.

In response to similar provisions in SB 367 LR 1717-01 (2013) officials from the **Office of the Secretary of State (SOS)** stated 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 \$2,500. 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 request funding through the appropriation process.

ASSUMPTION (continued)

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the changes proposed in this legislation would have no fiscal impact as long the bill does not raise conformity issues with federal law. However, if the language is found to be noncompliant with federal regulations, this proposal could have a significant negative fiscal impact on DOLIR. DOLIR officials stated the Division would ask the US Department of Labor to review the language for conformity issues and would supplement this response once additional information is received.

DOLIR officials noted non-conformity with federal law could jeopardize the certification of Missouri's Unemployment Insurance (UI) program. If the program is not certified, Missouri could lose approximately \$40 million in federal funds the state receives annually to administer the UI program. In addition, DOLIR could lose approximately \$13 million in federal funds each year that the Department of Economic Development - Division of Workforce Development receives to administer Wagner-Peyser reemployment services.

Finally, if the proposed legislation causes Missouri's program to be out of compliance or out of conformity with federal law, Missouri employers could lose part or all of the current federal credit against state unemployment taxes and would be required to pay the full 6.0 percent; an additional \$880 million per year cost for Missouri employers.

**Oversight** assumes this proposal could be implemented in compliance with relevant federal law and would have no impact on DOLIR or employers.

Officials from the **Department of Revenue**, the **City of Jefferson City**, the **City of O'Fallon**, and the **St. Louis County Board of Election Commission** assumed there would be no fiscal impact to their respective organizations from a previous version of this proposal.

Officials from the following counties: Andrew, Audrain, Barry, Bates, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cooper, DeKalb, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, St. Charles, St. Francois, Taney, Warren, Wayne and Worth did not respond to our request for information.

ASSUMPTION (continued)

Officials from the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, Pacific, Peculiar, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to our request for information.

Officials from the following school districts: Blue Springs, Branson, Charleston R-I, Cole R-I, Columbia, Fair Grove, Harrison R-IX, Independence, Jefferson City, Johnson County R-7, Kirksville, Kirbyville R-V , Lee's Summit, Malden R-I, Malta Bend, Mexico, Monroe City R-I, Nixa, Parkway, Pattonville, Raymore-Peculiar R-III, Raytown, Riverview Gardens, Sedalia, Sikeston, Silex, Special School District of St. Louis County, Spickard, St Joseph, St Louis, St. Charles, Sullivan, Warren County R-III, and Waynesville did not respond to our request for information.

**Oversight** assumes the state, and local governments, would have costs to integrate an additional category of leave into their personnel systems. Further, Oversight assumes there would be the potential for additional personnel costs in agencies such as the Department of Corrections, the Department of Mental Health, and Department of Social Services, and in schools which require certain functions to be staffed regardless of an individual employee's availability.

**Oversight** assumes certain state agencies, and organizations such as public schools, would have costs for replacement or substitute personnel during employee absences allowed by this proposal.

Finally, **Oversight** assumes the state and local governments would have costs for the employee accommodations which would be mandated by the proposal.

**Oversight** does not have any information regarding the number of employees who would be eligible for this new leave category, the number who would elect to take such leave, or the entities that would be impacted.

Accordingly, **Oversight** will include an Unknown impact to the General Revenue Fund, Other State Funds, and to Local Governments.

ASSUMPTION (continued)

**Oversight** notes that certain state agencies have positions which are supported, completely or in part, with federal funds. Oversight assumes there would be additional costs to these agencies if an employee supported by federal funds uses the leave or requests the employer accommodations authorized by this proposal, but assumes those costs would result in and be offset by the use of additional federal funding for those costs. Oversight will include the additional costs and funding in this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>GENERAL REVENUE</b>			
<u>Additional cost - Office of Administration</u>			
Computer programming in SAM II system for leave tracking	(Unknown)	\$0	\$0
<u>Additional cost - State Agencies</u>			
Administrative and overtime expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<b>OTHER STATE FUNDS</b>			
<u>Additional cost - State Agencies</u>			
Administrative and overtime expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>



<u>FISCAL IMPACT - State Government</u> (Continued)	FY 2015 (10 Mo.)	FY 2016	FY 2017
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**OTHER FEDERAL FUNDS**

<u>Additional revenue</u> - State agencies Additional federal funding for overtime expense	Unknown	Unknown	Unknown
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<u>Additional cost</u> - State Agencies Overtime expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON OTHER FEDERAL FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
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**LOCAL GOVERNMENTS**

<u>Additional cost</u> - Local Governments Administrative and overtime expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
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FISCAL IMPACT - Small Business

Small business would be required to provide unpaid leave for employees that are affected by domestic violence as defined in the proposal, and could have administrative and personnel costs to comply with the proposed requirements.

## FISCAL DESCRIPTION

This proposal would allow any person employed by a public employer or private employer to unpaid leave in order to prepare for or participate in a civil or criminal legal proceeding relating to domestic violence if the person, or a family or household member, is a victim of the violence. For this proposal, define domestic violence would be defined as assault, battery, coercion, harassment, sexual assault, unlawful imprisonment, and stalking. An employee would be required to give 48 hours notice of the intent to take such leave and could be required to provide certification to the employer that such leave is necessary.

On return from leave, the employee would be restored to the same or equivalent employment position and could not lose accrued benefits. Employers would be required to maintain health coverage for the employee while on leave but the premium may be recovered if the employee does not return.

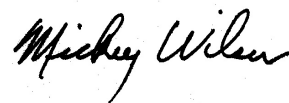
Employers and public agencies delivering public assistance would be barred from discriminating against individuals covered under the act, and such entities would be required to make reasonable accommodations for such individuals unless the accommodation would constitute an undue hardship. Reasonable accommodations would include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, implementation of a safety procedure, or assistance in documenting domestic violence that occurs at the workplace or in work-related settings.

The Attorney General would be given the authority to enforce the provisions of the 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

Office of Attorney General  
Office of State Courts Administrator  
Office of Administration  
    Division of Budget and Planning  
    Division of Information Technology Services  
    Division of Personnel  
Department of Labor and Industrial Relations  
Department of Revenue  
Cole County  
St. Louis County  
City of Columbia  
City of Jefferson City  
City of Kansas City  
City of O' Fallon  
Francis Howell School District  
Fulton Public Schools  
Kansas City Public Schools  
St. Louis County Board of Election Commission



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