

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0036H.05C  
Bill No.: HCS for SCS for SB 119  
Subject: Telecommunications; Consumer Protection; Internet and E-Mail; Courts;  
Liability; Health, Public; Food; Children and Minors; Courts, Juvenile; Civil  
Penalties  
Type: Original  
Date: May 5, 2021

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Bill Summary: This proposal changes the laws regarding judicial proceedings.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
General Revenue*	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</b>

\*Officials from the Department of Corrections assume a potential fiscal impact complying with §192.027 (True COVID Liability Act).

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Other State Funds	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Legal Expense Fund*	\$0	\$0	\$0
Tort Victims' Compensation	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Merchandising Practices Revolving Fund (0631)**	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>

\*Potential costs and transfers-in net to zero.

\*\*Oversight assumes this proposal could increase collection by the AGO from offenders

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Federal Funds*	\$0 or Up to (\$70,000,000)	\$0 or Up to (\$70,000,000)	\$0 or Up to (\$70,000,000)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 or Up to (\$70,000,000)</b>	<b>\$0 or Up to (\$70,000,000)</b>	<b>\$0 or Up to (\$70,000,000)</b>

\*This represents a potential loss of federal funding if Missouri is deemed out of federal compliance.... Department of Public Safety – Missouri Veterans’ Commission (Up to \$70,000,000 for §192.027 (True COVID Liability Act)).

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
<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 \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☒ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
<b>Local Government</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

#### **§§162.012 & 170.038 – liability claims in educational settings:**

In response to a similar proposal, HB 1304, officials from the **Department of Elementary and Secondary Education** and the **Department of Commerce and Insurance** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

**Oversight** did not receive any responses from school districts related to the fiscal impact of this proposal. Oversight is ultimately uncertain how this proposal may impact school districts' exposure to liability, but assumes this proposal includes work-based learning programs in the definition of school-sponsored activity. For purposes of this fiscal note, Oversight will show a range of impact from \$0 (no additional liability) to an unknown cost to school districts for increased liability or liability insurance.

**Oversight** has presented this fiscal note on the best current information available. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other school districts were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

#### **§192.027 – Relating to infectious diseases**

In response to similar provisions in HCS for SS for SCS for SB 27, officials from the **Department of Corrections (DOC)** assumed this legislation prohibits the state from mandating certain actions due to a contagious disease. It specifically prohibits the state, as a response to a contagious disease, from quarantining or isolating an individual if a contagious disease is not positively identified in an individual. In addition, the state cannot limit the use of or lawful activities in any premise under the circumstances in which extraordinary prevalence of a contagious disease has not been proven. While the term contagious disease is defined, there are

a number of airborne respiratory illnesses, i.e. tuberculosis, measles, mumps, etc. It is critical that the department have the ability to isolate an offender when he is exhibiting symptoms, before a positive test is received. The potential impact to the DOC from Section 192.027 is related to infectious disease control/management within correctional institutions. If this legislation were to prevent the department from quarantining or isolating offenders exposed to an infectious respiratory disease (tuberculosis, measles, mumps, etc.) or limiting the otherwise lawful activities of such offenders where there is no extraordinary prevalence of such disease, this could impact the department's ability to respond to/prevent large-scale infectious disease outbreaks within our facilities. DOC is not certain the language in this Section restricts our ability to respond in those circumstances, but if it does, there could be an impact. Therefore, the department will assume an unknown impact to this legislation.

In response to similar provisions in HCS for SS for SCS for SB 27, officials from the **Missouri Veterans Commission (MVC)** assumed this proposal would put MVC in violation of VA regulations regarding infection control and therefore could jeopardize our federal funding. Additionally, compliance with this provision of the bill would jeopardize the licenses of our medical staff (CNAs, nurses, physicians, etc.) if they were not allowed to quarantine a resident of our veterans homes who was demonstrating signs and symptoms of a contagious disease, but yet had not tested positive of it. Finally, although the proposed section contains a liability protection clause, this restraint on the use of quarantining residents suspected of having a contagious disease would put us in violation of the collective bargaining agreement that we have in place with our direct care staff which requires us to adhere to all CDC published guidance and thus we would anticipate litigation on that issue. Therefore, compliance with the proposed section 192.027, RSMo, in this bill can reasonably be expected to lead to litigation despite its liability protections and MVC defers to the AGO as to any costs to the state in litigation expenses. MVC anticipates a possible fiscal impact of more than \$70 million annually if VA funding for its Home is revoked due to failure to comply with infection control protocols.

In response to a similar proposal (HCS HB 1358), officials from the **City of Springfield (Springfield)** anticipated a negative fiscal impact of an unknown amount from this bill due to the inability to use effective mitigation strategies to stop the spread of communicable diseases which may increase the cost of contact tracing and fighting diseases. It is impossible to estimate the amount of negative fiscal impact because it is unknown how many additional cases of communicable disease might result from this bill.

In response to a similar proposal (HCS HB 1358), officials from the **Columbia/Boone County Department of Public Health and Human Services (PHHS)** stated there will be an unknown cost due to an increase in COVID-19 cases and other communicable diseases requiring disease investigation and contact tracing. It is impossible to estimate how many additional COVID-19 cases and other communicable disease cases there will be as a result of not quarantining close contacts or taking appropriate actions to prevent the spread of illness in various properties.

In response to a similar proposal (HCS HB 1358), officials from the **City of Kansas City Health Department** assume the proposal would have an indeterminate fiscal impact.

In response to a similar proposal (HCS HB 1358), officials from the **St. Louis County Health Department** anticipated this proposal would result in an unknown increase in costs if the department's ability to implement effective mitigation strategies to stop the spread of communicable diseases is restricted. It is anticipated there would be an increase in costs for contact tracers and case investigators. It is impossible to estimate what the negative fiscal impact would be as a result of this bill.

**Oversight** notes it is currently the responsibility of local public health agencies (LPHAs) to conduct disease investigation and contact tracing regardless of whether a statewide emergency has been proclaimed by the governor. It is assumed any potential costs that may be incurred as a result of this proposal are indirect costs. Therefore, Oversight will present no fiscal impact for provisions of this proposal that relate to communicable diseases and potential impacts incurred by local governments and public health departments.

In response to a similar proposal (HCS HB 1358), officials from the **Department of Health and Senior Services**, the **Department of Social Services**, the **City of Claycomo**, the **City of Corder** and the **Newton County Health Department** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to a similar proposal (HCS HB 1358), officials from the **Attorney General's Office**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **City of Kansas City**, the **City of O'Fallon** and the **City of St. Louis** each assumed the proposal would have no fiscal impact on their respective organizations.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other local public health agencies, cities and various county officials were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

#### §196.076 – Food or merchandise containers

In response to a similar proposal (SB 169), officials from the **Missouri Department of Agriculture**, **Attorney General's Office** and **Department of Health and Senior Services** each assumed the proposal will have no fiscal impact on their respective organizations.

**Oversight** notes that the above mentioned agencies 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 this section.

§211.072 - Detention of juveniles certified as adults

In response to a similar provision in HCS for HB 673, officials from the **Department of Social Services (DSS)** stated his section relates to the detention of juveniles certified as adults.

In response to a similar provision in HCS for HB 673, officials from **DSS, Division of Youth Services (DYS)** stated this proposal will have no fiscal impact on DYS. §211.072 is modified to require a juvenile who has been certified to remain in a juvenile detention facility while awaiting the trial in adult court. This section further provides for pathways for a hearing to be held to determine if the juvenile detention facility is the best place for the juvenile to await trial. This action would not involve DYS.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for DYS in the fiscal note.

**CD** officials do not anticipate a fiscal impact.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for CD in the fiscal note.

§211.261 - Appeals allowed to certain people from any order modifying the placement of a child

In response to a similar provision in HCS for HB 673, from **CD** stated this section provides, notwithstanding the provisions of subsection 1 of this section, an appeal shall be allowed to the:

- (2) Parent, guardian ad litem, or juvenile officer from any order changing or modifying the placement of a child.

This language possesses a potential impact to CD given an appeal of an order of placement would increase workload for the case manager to identify an alternative placement option, could potentially increase the length of time for a child in care due to placement disruption and could potentially increase the need for DLS assistance. It is unknown currently how many cases have a court ordered placement.

**Oversight** does not have any information to the contrary. Oversight notes CD and DLS did not request additional staff to implement the provisions of this section. Therefore, Oversight assumes CD and DLS will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to CD or DLS for fiscal note purposes. Oversight also assumes CD and/or DLS may seek additional appropriations if this section of the proposal results in a significant increase in costs.

§287.120 – Worker’s compensation

In response to a similar proposal (HB 119), officials from the **Department of Labor and Industrial Relations (DOLIR)** assumed this proposal would not have a direct fiscal impact on their organization.

Additionally, there is the possibility of a slight increase to the cost of workers' compensation premiums for employers covered by the legislation since it makes it more difficult for claimants to sue co-employees in civil court unless the co-employee's act was willful and intentional rather than merely negligent. This would have the net effect of keeping cases of co-employee liability involving negligence within the workers' compensation system, potentially leading to a slight increase in premiums. However, there should also be less likelihood that cases of co-employee liability would be filed in circuit court, potentially shielding employers from the prospect of large civil judgments and unexpected business costs due to litigation.

It should be noted that even when claimants recover damages against liable third parties for their work comp injuries, insurers/employers are entitled to subrogation for a portion of those damages recovered. RSMo. 287.150. It is difficult to determine how often insurers seek subrogation owing to the difficulty of recovery and the possible disruption of the employer/employee relationship with their insured.

Officials from the DOLIR assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this section.

In response to a similar proposal (HB 119), officials from the **Missouri Department of Conservation (MDC)** assumed the proposal would have direct fiscal impact on their organization of Unknown negative fiscal impact but likely less than \$250,000.

**Oversight** notes that as per DOLIR statement it is more difficult for claimants to sue co-employees in civil court unless the co-employee's act was willful and intentional rather than merely negligent. Since this proposal puts forward more stringent rules of when the employee is able to file suit against the employer Oversight assumes the fiscal impact would be lesser, not larger, than the one shown by MDC. Therefore, Oversight will note zero impact for MDC for purpose of this fiscal note.

In response to a similar proposal (HB 119), officials from the **Attorney General's Office, Office of Administration – Budget & Planning, Department of Economic Development, Department of Elementary and Secondary Education, Department of Higher Education and Workforce Development, Department of Natural Resources, Department of Corrections, Department of Revenue Department of Public Safety – Alcohol and Tobacco Control, Department of Public Safety – Capital Police, Department of Public Safety- Fire Safety, Department of Public Safety – Directors Office, Department of Public Safety – National Guard, Department of Public Safety – Veterans Commission, Department of Public Safety – State Emergency Management Agency, Missouri Department of**

**Agriculture, Department of Social Services Missouri Ethics Commission, MoDOT & Patrol Employees' Retirement System** each assumed no fiscal impact from the proposal.

In response to a similar proposal (HB 119), officials from the **Missouri Department of Transportation (MODOT)** assumed the proposal would not have a direct fiscal impact on their organization.

Officials from the MODOT assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for that agency.

In response to a similar proposal (HB 119), officials from the **Department of Public Safety – Highway Patrol** deferred to the **Missouri Department of Transportation** for the potential fiscal impact of this proposal.

In response to a similar proposal (HB 119), officials from the **Office of Administration – Administrative Hearing Commission, and Office of Administration (OA) – Director's Office** both assumed this proposal would have no direct fiscal impact on their respective organizations.

Officials from the OA and OA-AHC assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this section.

§§ 407.1095 – 407.1115 (original bill);

Officials from the **Office of the Attorney General (AGO)** assume the proposal will have no fiscal impact on their organization.

**Oversight** previously inquired with the AGO regarding the number of cases resolved over the last six years and how much was collected in judgements from the no-call list statutes. Monies collected for the judgements goes to the Merchandising Practices Revolving Fund (0631). The following is their response:

Fiscal Year	# of cases Resolved	Judgements in those cases	# of cases with collections	Collections
2014	17	\$758,000	12	\$225,500
2015	5	\$739,000	3	\$593,416
2016	6	\$30,500	3	\$10,500
2017	11	\$526,433	4	\$275,433
2018	1	\$500,133	0	\$0
2019	3	\$85,000	1	\$8,500

Source: Office of the Attorney General



Oversight notes the AGO has not provided the amounts for FY 2020 yet.

Oversight notes that the AGO has stated the proposal would not have a direct fiscal impact on their organization. Oversight assumes this proposal may increase the number of cases referred to the AGO and could result in an increase in collections under this chapter. Oversight will reflect a \$0 or Unknown (assumed to be less than \$250,000) positive fiscal impact to the Merchandising Practices Revolving Fund.

Officials from the **Department of Corrections (DOC)** state FN 0036-02 (SCS for SB 119) changes the law regarding telecommunication practices.

Section 407.1115 creates a new class E felony. The Department of Corrections has no prior data relating to these charges; therefore, a standard E felony response will be used to estimate a fiscal impact to this legislation. For each new nonviolent class E felony, it is estimated that one person could be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 on field supervision by FY24.

	# to prison	Cost per year	Total Costs for <b>prison</b>	# to probation & parole	Cost per year	Total cost for <b>probation and parole</b>	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	1	(\$7,756)	(\$6,463)	2	absorbed	\$0	(\$6,463)
Year 2	2	(\$7,756)	(\$15,822)	4	absorbed	\$0	(\$15,822)
Year 3	2	(\$7,756)	(\$16,139)	7	absorbed	\$0	(\$16,139)
Year 4	2	(\$7,756)	(\$16,461)	7	absorbed	\$0	(\$16,461)
Year 5	2	(\$7,756)	(\$16,791)	7	absorbed	\$0	(\$16,791)
Year 6	2	(\$7,756)	(\$17,127)	7	absorbed	\$0	(\$17,127)
Year 7	2	(\$7,756)	(\$17,469)	7	absorbed	\$0	(\$17,469)
Year 8	2	(\$7,756)	(\$17,818)	7	absorbed	\$0	(\$17,818)
Year 9	2	(\$7,756)	(\$18,175)	7	absorbed	\$0	(\$18,175)
Year 10	2	(\$7,756)	(\$18,538)	7	absorbed	\$0	(\$18,538)

\*If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state

In December 2019, the DOC re-evaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 48 probation and parole districts.

The DOC cost of incarceration is \$21.251 per day or an annual cost of \$7,756 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

**Oversight** assumes the DOC will be able to absorb the cost of two additional prisoners, and will not reflect a fiscal impact from this proposal.

Officials from the **Missouri Highway Patrol**, the **Office of the State Courts Administrator**, and the **Missouri Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the State Public Defender (SPD)** state for the purpose of the proposed legislation, and as a result of excessive caseloads, the Missouri State Public Defender (MSPD) cannot assume existing staff will be able to provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime(s) of unlawful caller identification spoofing, a class E felony in violation of Section 407.1115 RSMo. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards. While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Missouri State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State** notes 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that

additional funding would be required to meet these costs. However, they also recognize 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 their office can sustain within their core budget. Therefore, they reserve 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.

§§ 435.415 & 537.065 enforcement of arbitration awards and intervention in court proceedings for insurance companies;

In response to a similar proposal (HB 345), officials from the **Office of the State Courts Administrator**, the **Attorney General's Office**, the **Department of Commerce and Insurance**, the **Department of Labor and Industrial Relations** and the **Missouri Department of Transportation** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to similar legislation from this year, SB 179, officials from the **Office of Administration** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these sections.

§§ 456.1-114 & 456.4-419 trust interpretation and trust decanting;

In response to a similar proposal, SB 338, officials from the **Office of the State Courts Administrator**, the **Attorney General's Office**, the **Department of Commerce and Insurance**, the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Revenue** and the **Department of Social Services** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§ 490.715 collateral source rule

In response to a similar proposal, HCS HB 577), officials from the **Office of the State Courts Administrator**, the **Attorney General's Office**, the **Department of Commerce and Insurance**, the **Department of Health and Senior Services**, the **Department of Mental Health** and the **Department of Social Services** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§ 516.099 product liability

In response to a similar proposal, SB 7, officials from the **Department of Revenue**, the **Attorney General's Office**, the **Department of Commerce and Insurance** and the **Office of**

**the State Courts Administrator** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to similar legislation from 2020, SB 555, officials at the **Office of Administration** assumed no fiscal impact from this proposal.

§§ 516.120 & 516.140 statute of limitations for personal injury claims from 5 years to 2 years

In response to similar legislation from this year, SB 3, officials from the **Office of Administration** stated §516.140(1) changes the statute of limitation for personal injury claims from five years to two years. This provision has the potential to avoid costs to the state Legal Expense Fund (LEF) for actions alleging negligence against a state employee, due to the limiting time period for bringing such cause of action. However, the amount of such cost savings is unknown as the number of potential claims that may be asserted against the state, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state LEF, Section 105.711, RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified and individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

In response to a similar proposal, HCS for HB 922), officials from the **Department of Commerce and Insurance** and the **Office of the State Courts Administrator** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to a similar proposal, HCS for HB 922), officials from the **Attorney General's Office (AGO)** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

**Oversight** notes information from [www.alllaw.com](http://www.alllaw.com) lists the Statute of Limitations on Personal Injury Lawsuits by State. That information is as follows:

<u>STATUTE OF LIMITATIONS ON PERSONAL INJURY LAWSUITS BY STATE</u>					
<u>1 year</u>	<u>2 year</u>	<u>3 year</u>	<u>4 year</u>	<u>5 year</u>	<u>6 year</u>
Kentucky	Alabama	Arkansas	Florida	Missouri	Maine
Louisiana	Alaska	DC	Nebraska		North Dakota
Tennessee	Arizona	Maryland	Utah		
	California	Massachusetts	Wyoming		
	Colorado*	Michigan			
	Connecticut	Mississippi			
	Delaware	Montana			
	Georgia	New Hampshire			
	Hawaii	New Mexico			
	Idaho	New York			
	Illinois	North Carolina			
	Indiana	Rhode Island			
	Iowa	South Carolina			
	Kansas	South Dakota			
	Minnesota	Vermont			
	Nevada	Washington			
	New Jersey	Wisconsin			
	Ohio				
	Oklahoma				
	Oregon				
	Pennsylvania				
	Texas				
	Virginia				
	West Virginia				
Source: <a href="http://www.alllaw.com">www.alllaw.com</a>					
*Colorado is 3 years for car accidents					

The **Department of Labor and Industrial Relations'** website says "The Tort Victims' Compensation Fund exists to help compensate those who have been injured due to the negligence or recklessness of another (such as in a motor vehicle collision or a hunting accident), and who have been unable to obtain full compensation because the party at fault (the tortfeasor) had no insurance, or inadequate insurance, or has filed for bankruptcy, or for other reasons specified by the law."

*Tort Victims Compensation Fund (TVCF) - \$0 to (unknown)*

**Oversight** notes that under §537.675.3, 50% of the punitive damage state judgments, after deducting attorney's fees and expenses, shall go into the Tort Victims' Compensation Fund

(0622). Because this proposal tends to reduce punitive damages awards by reducing the time frame to file suit, Oversight assumes a negative direct fiscal impact to the Tort Victims Compensation Fund.

Information provided by the Attorney General shows that between July, 2014, and December, 2019, the Tort Victims Compensation Fund received \$20,043,083. During that period, average annual payments into the Tort Victims Compensation Fund (TVCF) were \$3,644,197.

**Oversight** does not know how many cases affected by this proposal would not be brought because of the change in the statute of limitations.

The AGO does not track the types of claims paying into the TVCF, so this number is likely an overestimate, as it includes claims not affected by this proposal. Because **Oversight** was unable to get more specific information about the number of claims filed between two and five years after the claim arose, Oversight will show a \$0 to (unknown) to the TVCF.

*Legal Expense Fund (LEF) - \$0 to unknown*

“The State Legal Expense Fund (LEF) is used for payments in resolution of judgments or claims for damages from injured parties arising out of the actions of state employees, agencies, contracted physicians, and the condition of state property.” *Audit Report No. 2017-098*

Officials from the Office of Administration did not respond to **Oversight’s** request for fiscal impact for this proposal. However, information from the Office of Administration (OARM) from SB 633 from 2020 shows that the LEF spent \$14,900,000 on personal injury and wrongful death claims in FY 2015-2018. The annual average of those claims is \$3,725,000.

According to information from OARM, 20% of the LEF’s funds comes from other state funds, implying \$0 up to \$3,725,000 annually reduced LEF expenditures, with \$2,980,000 through General Revenue appropriations, and \$745,000 from other funds.

Oversight notes that these numbers are likely an overestimate, as it includes claims that could be brought within two years. Because **Oversight** was unable to get more specific information about the number of claims filed between two and five years after the claim arose, Oversight will show a \$0 to unknown net direct fiscal impact.

§ 537.328 immunity from liability for inherent risks of camping

In response to a similar proposal, HB 1070, officials from the **Attorney General’s Office**, the **Department of Natural Resources**, the **Department of Labor and Industrial Relations**, the **Missouri Department of Conservation**, the **Missouri Office of Prosecution Services** and the **Office of the State Public Defender** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§ 537.771 civil liability for harm caused by products manufactured or sold by third parties

In response to a similar proposal, HCS HB 782, officials from the **Office of the State Courts Administrator**, the **Department of Commerce and Insurance** and the **Department of Revenue** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to a similar proposal, HB 782, officials from the **Attorney General's Office** and the **Office of Administration** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§§ 537.880 – 537.890 exposure to asbestos

In response to a similar proposal, HCS HB 363, officials from the **Attorney General's Office (AGO)** assumed that if this legislation becomes law, it could be more difficult for claimants to receive punitive damages, thus the total amount of punitive damages awarded in Missouri could decrease. Since the Tort Victims' Compensation Fund is funded by liens on punitive damages, the AGO assumes that a decrease in punitive damages awarded would decrease the amount of funds generated through these liens for the Tort Victims' Compensation Fund.

It is not possible to know the extent to which punitive damages awarded to claimants will decrease under this proposal, therefore, the AGO assumes it will have an unknown negative fiscal impact on the Tort Victims' Compensation Fund.

**Oversight** notes that under §537.675.3, 50% of the punitive damage state judgments, after deducting attorney's fees and expenses, shall go into the Tort Victims' Compensation Fund (0622). Information provided by the Attorney General shows that between July, 2014, and December, 2019, the Tort Victims Compensation Fund received \$20,043,083. During that period, average annual payments into the Tort Victims Compensation Fund (TVCF) were \$3,644,197.

The AGO does not track the types of claims payed into the TVCF, so this number is likely an overestimate, as it includes claims not affected by this proposal. Oversight notes on average from 2015 to 2019, the court heard 270 cases regarding asbestos tort actions according to the table below. Therefore, **Oversight** will show a \$0 to (unknown) fiscal impact to the TVCF.

<b>Year</b>	<b>Asbestos Cases</b>
2015	268
2016	303
2017	353
2018	161
2019	267
Average	270

Tables 27 & 33 – OSCA’s Statistical Annual Report Supplement

In response to a similar proposal, HCS HB 363, officials from the **Office of the State Courts Administrator** and the **Department of Labor and Industrial Relations** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to a similar proposal, HB 363, officials, officials from the **Department of Public Safety’s Veterans Commission** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

In response to a similar proposal, HCS HB 363, officials from the **Fruitland Area Fire Protection District** assume a positive impact for cases involving asbestos exposure and disease resulting from exposure.

In response to a similar proposal, HCS HB 363, officials from the **City of Claycomo**, the **City of Kansas City**, the **City of Springfield** and the **Pettis County Ambulance District** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§§ 620.2450 & 620.2456 Broadband Internet Grant Program

Officials from the **Department of Economic Development** did not respond to our request for fiscal impact.

**Oversight** will assume the changes made in these sections will not fiscally impact the state or local political subdivisions.



<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>GENERAL REVENUE</b>			
<u>Cost – DOC – (\$192.027) potential restrictions to quarantining p.3-4</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Cost Savings – potential reduction on pay outs of personal injury damages from LEF §§516.120, 516.140 p. 14</u>	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>Unknown to (Unknown)</u></b>	<b><u>Unknown to (Unknown)</u></b>	<b><u>Unknown to (Unknown)</u></b>
<b>OTHER STATE FUNDS</b>			
<u>Cost Savings – Potential reduction in payments to Legal Expense Fund LEF §§516.120, 516.140 p. 14</u>	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<b>ESTIMATED NET EFFECT TO OTHER STATE FUNDS</b>	<b><u>\$0 to Unknown</u></b>	<b><u>\$0 to Unknown</u></b>	<b><u>\$0 to Unknown</u></b>
<b>LEGAL EXPENSE FUND (0692)</b>			
<u>Cost Avoidance – potential reduction on payouts of injury damages from LEF §§516.120, 516.140 p. 14</u>	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Transfer In – Reduction in appropriation from GR §§516.120, 516.140 p. 14</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

<u>FISCAL IMPACT – State Government (continued)</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<u>Transfer In</u> – Reduction in transfers from other state funds §§516.120, 516.140 p. 14	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
<b>ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>TORT VICTIMS COMPENSATION FUND</b>			
<u>Loss</u> – Various State Agencies - potential reduction from payouts of punitive damages to TVCF §§516.120, 516.140 p. 14	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
<u>Loss</u> – AGO – potential reduction from payouts of punitive damages to TVCF §§537.880-537.890 asbestos claims p. 15-16	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
<b>ESTIMATED NET EFFECT ON TORT VICTIMS’ COMPENSATION FUND</b>	<b><u>\$0 to</u> (Unknown)</b>	<b><u>\$0 to</u> (Unknown)</b>	<b><u>\$0 to</u> (Unknown)</b>
<b>MERCHANDISING PRACTICES REVOLVING (0631)</b>			
<u>AGO</u> – Potential increase in judgement collections for expansion of Telemarketing No-Call statutes §§407.1095 – 107.1115 p. 8-10	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>ESTIMATED NET EFFECT TO THE MERCHANDISING PRACTICES REVOLVING (0631)</b>	<b><u>\$0 or</u> <u>Unknown</u></b>	<b><u>\$0 or</u> <u>Unknown</u></b>	<b><u>\$0 or</u> <u>Unknown</u></b>

<u>FISCAL IMPACT – State Government (continued)</u>	<u>FY 2022 (10 Mo.)</u>	<u>FY 2023</u>	<u>FY 2024</u>
<b>FEDERAL FUNDS</b>			
Loss – MVC – (§192.027) potential violation of VA regulations p.3-4	\$0 or Up to <u>(\$70,000,000)</u>	\$0 or Up to <u>(\$70,000,000)</u>	\$0 or Up to <u>(\$70,000,000)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0 or Up to (\$70,000,000)</u></b>	<b><u>\$0 or Up to (\$70,000,000)</u></b>	<b><u>\$0 or Up to (\$70,000,000)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost Savings</u> – LPS Potential reduction in injury damages paid §§516.120, 516.140 p. 14	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Costs</u> – School Districts for increased exposure to liability or insurance costs §§162.012 & 170.038 p. 3	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>ESTIMATED NET EFFECT ON SCHOOL DISTRICTS</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>

#### FISCAL IMPACT – Small Business

Small businesses could be impacted by the various changes to liability protection in this proposal.

#### FISCAL DESCRIPTION

§§162.012 & 170.038 allows school boards of any school district to purchase insurance contracts to insure against loss, damages, or expenses for a claim arising out of the sickness, bodily injury, or death by accident of any student injured on school premises or during school-sponsored activities; as well as insurance for the benefit of students to insure against losses resulting from loss of, theft of, or damage to personal property of students.

§192.027 - creates the "True COVID Liability Act" and contains many declarative statements regarding epidemiology, public policy relating to contagious diseases including COVID-19, susceptibility to contagious diseases, personal accountability, legal liability and government-mandated responses as outlined. The bill prohibits the state or any political subdivision thereof as

a response to a contagious disease from quarantining an individual in any way or limiting the use of otherwise lawful activities in any private property or premises in which extraordinary prevalence of a contagious disease has not been proven. No individual, owner, or entity shall be subject to criminal or civil liability in any action alleging exposure to a contagious disease on premises controlled by such person unless they knowingly and purposely with malice, exposed an individual to a contagious disease where such exposure caused the exposed individual to suffer from a clinical disease.

§407.1095 - §407.1115 would add call spoofing, as defined, as a prohibited method of telephone solicitation under Missouri's no-call list law. It would also create the "Caller ID Anti-Spoofing Act", with penalty provisions.

§516.120 & §516.140 - Currently, actions for personal injury must be brought within five years from the date the injury occurred. This bill reduces the time frame to two years from when the injury occurred.

This contains an emergency clause.

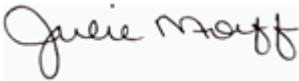
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

## SOURCES OF INFORMATION

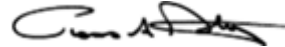
Department of Elementary and Secondary Education  
Department of Commerce and Insurance  
Department of Health and Senior Services  
Department of Social Services  
Missouri Department of Agriculture  
Department of Labor and Industrial Relations  
Missouri Department of Conservation  
Office of the Attorney General  
Missouri Highway Patrol  
Department of Corrections  
Office of the State Courts Administrator  
Missouri Office of Prosecution Services  
Office of the State Public Defender  
Joint Committee on Administrative Rules  
Columbia/Boone County Department of Public Health and Human Services

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Bill No. HCS for SCS for SB 119  
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May 5, 2021

City of Kansas City Health Department  
St. Louis County Health Department  
City of Springfield

A handwritten signature in cursive script, reading "Julie Morff".

Julie Morff  
Director  
May 5, 2021

A handwritten signature in cursive script, reading "Ross Strobe".

Ross Strobe  
Assistant Director  
May 5, 2021