

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4039S.03C
 Bill No.: SCS for SB 631
 Subject: Civil Procedure; Liability
 Type: Original
 Date: January 23, 2022

Bill Summary: This proposal modifies provisions relating to civil actions, including statutes of limitations and the expiration of provisions regarding COVID-19 actions.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|-----------------------|-----------------------|-----------------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| General Revenue (appropriation reduction to LEF for cost avoidance)** | \$0 to Unknown | \$0 to Unknown | \$0 to Unknown |
| Total Estimated Net Effect on General Revenue | \$0 to Unknown | \$0 to Unknown | \$0 to Unknown |

**There could be a cost savings from this proposal, however, Oversight is unclear on how many cases would be affected because of the change in the statute of limitations. Oversight assumes the cost savings would not be greater than \$250,000.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|-----------------------|-----------------------|-----------------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| Other State Funds | \$0 to Unknown | \$0 to Unknown | \$0 to Unknown |
| Legal Expense Fund* | \$0 | \$0 | \$0 |
| Tort Victims' Compensation Fund | \$0 to (Unknown) | \$0 to (Unknown) | \$0 to (Unknown) |
| Total Estimated Net Effect on Other State Funds** | \$0 to Unknown | \$0 to Unknown | \$0 to Unknown |

Numbers within parentheses: () indicate costs or losses.

*Indicates numbers that net to zero.

** There could be a cost savings from this proposal, however, Oversight is unclear on how many cases would be affected because of the change in the statute of limitations. Oversight assumes the cost savings would not be greater than \$250,000.

The potential fiscal impact above represents the potential reduction in exposure to liability claims.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

- 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.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|-----------------------|-----------------------|-----------------------|
| FUND AFFECTED | FY 2023 | FY 2024 | FY 2025 |
| | | | |
| Local Government | \$0 to Unknown | \$0 to Unknown | \$0 to Unknown |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Attorney General’s Office**, the **Department of Commerce and Insurance**, the **Office of the State Courts Administrator**, the **University of Missouri System** and the **Hermann Area Hospital 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.

Oversight notes information from 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: www.alllaw.com | | | | | |
| *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*

In response to the previous version of this proposal, officials from the *Office of Administration* stated §516.140 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 personal injury, due to the much shorter proposed limitations period applicable to such actions.

The state self-assumes its own liability under the state Legal Expense Fund, 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 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 addition, 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.

| <u>FISCAL IMPACT – State Government</u> | FY 2023 (10 Mo.) | FY 2024 | FY 2025 |
|---|------------------------------|------------------------------|------------------------------|
| GENERAL REVENUE | | | |
| <u>Cost Savings – potential reduction on pay outs of personal injury damages from LEF</u> | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> |
| OTHER STATE FUNDS | | | |
| <u>Cost Savings – Potential reduction in payments to Legal Expense Fund</u> | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> |
| ESTIMATED NET EFFECT TO OTHER STATE FUNDS | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> |
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| <u>FISCAL IMPACT – State Government</u> | FY 2023 (10 Mo.) | FY 2024 | FY 2025 |
| LEGAL EXPENSE FUND (0692) | | | |
| | | | |

| | | | |
|---|--------------------------------|--------------------------------|--------------------------------|
| <u>Cost Avoidance</u> – potential reduction on payouts of injury damages from LEF | \$0 to Unknown | \$0 to Unknown | \$0 to Unknown |
| <u>Transfer In</u> – Reduction in appropriation from GR | \$0 to (Unknown) | \$0 to (Unknown) | \$0 to (Unknown) |
| <u>Transfer In</u> – Reduction in transfers from other state funds | \$0 to (Unknown) | \$0 to (Unknown) | \$0 to (Unknown) |
| ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| TORT VICTIMS COMPENSATION FUND | | | |
| <u>Loss</u> – Various State Agencies - potential reduction from payouts of punitive damages to TVCF | \$0 to (Unknown) | \$0 to (Unknown) | \$0 to (Unknown) |
| ESTIMATED NET EFFECT ON TORT VICTIMS' COMPENSATION FUND | <u>\$0 to (Unknown)</u> | <u>\$0 to (Unknown)</u> | <u>\$0 to (Unknown)</u> |

| <u>FISCAL IMPACT – Local Government</u> | FY 2023 (10 Mo.) | FY 2024 | FY 2025 |
|---|------------------------------|------------------------------|------------------------------|
| LOCAL POLITICAL SUBDIVISIONS | | | |
| <u>Cost Savings – Potential reduction in injury damages paid</u> | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> |
| ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> | <u>\$0 to Unknown</u> |

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

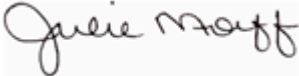
FISCAL DESCRIPTION

Currently, actions for personal injury shall be brought within five years from the time the injury occurred. This act states that actions for personal injury are to be brought within two years from the time the injury occurred. Additionally, current actions against an insurer relating to uninsured motorist coverage or underinsured motorist coverage, including any action to enforce such coverage, are to be brought within ten years. This act modifies the statute of limitations for such actions to be brought within two years. Finally, the provisions relating to COVID-19 related actions are set to expire on August 28, 2025. This act provides that such provisions shall continue to apply to causes of action accruing before August 28, 2025. However, any causes of action that are prohibited or time-barred shall continue to be so after August 28, 2025.

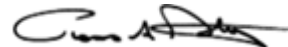
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Commerce and Insurance
University of Missouri System
Hermann Area Hospital District
Office of the State Courts Administrator
Office of Administration



Julie Morff
Director
January 23, 2022



Ross Strope
Assistant Director
January 23, 2022