

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4351S.06C
 Bill No.: SCS for SB Nos. 702, 636, 651 & 693
 Subject: Children and Minors; Education, Elementary and Secondary; Education, Higher;
 Employees-Employers; Department of Health and Senior Services; Political
 Subdivisions
 Type: Original
 Date: March 8, 2022

Bill Summary: This proposal creates new provisions relating to COVID-19 vaccination requirements.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue Fund*	\$0 or Up to (\$115,083)	\$0 Up to (\$140,862)	\$0 Up to (\$143,087)
Total Estimated Net Effect on General Revenue	\$0 or Up to (\$115,083)	\$0 Up to (\$140,862)	\$0 Up to (\$143,087)

*Oversight notes DOLIR assumes possibility of complaints that could be potentially filed with the Missouri Commission on Human Rights and above expenses represents additional FTEs needed for compliance.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Various Federal Funds*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*The potential “(Unknown)” fiscal impact to various state agencies could be quite substantial, depending upon decisions by the courts and actions taken by the federal government.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
All State and Federal	1 to 2 FTE	1 to 2 FTE	1 to 2 FTE
Total Estimated Net Effect on FTE	1 to 2 FTE	1 to 2 FTE	1 to 2 FTE

- 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	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections: 67.308 - Public Accommodations, 167.181 - K-12 Students, 174.336 - Public Institutions of Higher Education, 210.003 - Child Care Centers, and 213.055 - Reasonable Accommodations for Employees in regards to COVID-19 Vaccinations

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that Oversight has or on prior year information regarding a similar bill. 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.

In response to the previous version of the proposal, the officials from the **Department of Labor and Industrial Relations (DOLIR)** noted:

The proposal increases the duty of reasonable accommodation by employers to include not only sincerely held religious beliefs but added sincerely held ethical and moral beliefs. The bill also provides for a broader interpretation of the duty to reasonably accommodate. This will result in additional complaints being filed with the Missouri Commission on Human Rights (MCHR).

Using this assumption, the projected number of additional complaints for FY 2022 is estimated at 110 filed or 10%. The minimum number of investigations completed per Human Relations Officer per year is 96. Using this estimate, the MCHR has determined it would require one additional Human Relations Officer.

Oversight notes the **DOLIR** assumed the proposal will have a direct fiscal impact on the organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a range of impact in the fiscal note for \$0 (no additional claims are being filed) or (Up to 1-2 FTE if less than to more than 100 additional claims are being filed).

Officials from the **Department of Mental Health (DMH)** note:

Due to the vulnerable population served in Department of Mental Health (DMH) congregate care inpatient settings, when DMH deems it necessary, all employees are required to test regardless of vaccination status. This requirement may put some DMH facilities and agencies at odds with federal requirements for licensure and/or Centers for Medicare and Medicaid funding.

Due to the uncertainty surrounding a federal vaccination mandate, DMH cannot calculate a fiscal impact on the Department at this stage; therefore, the fiscal impact to the Department is unknown at this time.

Officials from the DMH assume the proposal may have direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect an Unknown impact to a Federal Funds in the fiscal note.

Officials from the **Department of Public Safety – Missouri Veterans Commission** note:

MVC received approximately \$59 million in per diem payments through the VA State Veterans Homes Per Diem Grant Program during state fiscal year 21. If MVC does not comply with federal regulations MVC would lose all of its federal funding and may lose its Recognition and Certification as a VA State Skilled Care Home.

MVC currently holds contracts with entities that require COVID vaccinations for their employees. Any company MVC hires who also receive reimbursement from CMS will be subject to vaccination requirements. For example, pharmacy vendors, skilled therapy vendors, dietary service vendors, wound care vendors, hospice vendors, lab vendors, etc. MVC also has agreements in place with the US Department of Veterans Affairs to provide care and service, they also require vaccinations for employment. If MVC were prohibited from contracting healthcare services with these vendors the MVC would assume financial responsibility for hiring/contracting qualified independent professionals to perform these necessary services who are not affiliated with or receiving reimbursement from CMS. MVC would have to close our Veterans Homes if MVC could not contract the services listed above. This Fiscal impact could exceed \$75M.

CFR 59.110 “Recapture Provisions” allows the VA to recover the federal construction grant funds if the facility does not maintain services previously specified in the construction MOU between VA and MVC for 20 years.

Most projects take 2 years from start of design to end of construction. The 5 previous projects totaled \$28.7 million in federal dollars. The average revenue received over a 3 year period was \$9.55 million. An average calculation over the previous 20 years is \$191 million.

In addition, the cost of the original construction of facilities constructed since 2000 is approximately \$68.8 million. Included in this number is the construction of all 5 Veterans cemeteries, the Mt. Vernon Veterans Home, and the Warrensburg Veterans Home.

The language as it relates to the construction grant program could cost MVC in excess of \$260 million in “Recapture Provisions”.

In response to the previous version of the proposal, officials from the **Office of the State Courts Administrator (OSCA)** noted:

There may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Oversight assumes OSCA is provided with core funding to handle a certain amount of activity each year. Oversight assumes OSCA could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OSCA could request funding through the appropriation process.

Officials from the **Office of Administration**, the **Office of Administration – Budget & Planning**, the **Department of Commerce and Insurance**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Corrections**, the **Department of Health and Senior Services**, the **Department of Natural Resources**, the **Department of Revenue**, the **Department of Public Safety – (Director’s Office, National Guard, Highway Patrol, State Emergency Management, Alcohol & Tobacco,)**, the **Missouri Department of Conservation**, the **Department of Social Services**, the **Missouri Department of Transportation**, the **Office of the State Auditor**, the **Missouri Department of Agriculture**, the **Office of the State Treasurer**, the **House of Representatives**, the **Joint Committee on Education**, the **Joint Committee on Public Employee Retirement**, the **Joint Committee on Public Education**, the **Legislative Research**, the **Oversight Division**, the **Missouri Senate**, the **Missouri Consolidated Health Care Plan**, the **Missouri Office of Prosecution Services**, the **Missouri State Employee’s Retirement System**, the **Missouri Consolidated Health Care Plan**, the **State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations.

In response to the previous version of the proposal, officials from the **University of Missouri System** noted:

If the federal mandate is upheld by the courts and this bill prohibits compliance with the federal mandate, the university would lose in excess of \$76 million of federal contracts. If the federal mandate is upheld as a condition of participation in Medicare and Medicaid and this bill prohibits compliance with the federal mandate, it could result in a loss of \$547.4 million annually.

Officials from the **University of Central Missouri** assume the proposal will have an indeterminate fiscal impact on their respective organization.

Oversight notes that officials from the University of Missouri System and University of Central Missouri both assume the proposal will have a direct fiscal impact on their organization.

Oversight does not have any information to the contrary. Therefore, **Oversight** will reflect a potential reduction in Federal Revenues \$0 to (Unknown) in the fiscal note.

Officials from the **Saint Louis City Firefighter’s Retirement Plan** assume the proposal could have a fiscal impact on the organization.

Oversight requested additional explanation as to whether the officials from the Saint Louis City Firefighter Retirement Plan anticipate negative or positive impact stemming from the proposal;

however, Oversight was not able to obtain response at this time. Oversight does not have any information to the contrary. Therefore, **Oversight** will reflect a zero impact in the fiscal note until such a response is received.

Officials from the **City of Claycomo**, the **City of Kansas City**, the **City of O’Fallon**, the **Kansas City Employee’s Retirement System**, the **Kansas City Firefighter’s Pension System**, the **Kansas City Supplemental Retirement Plan**, the **Metro St. Louis Sewer District Employees Pension Plan**, the **Sheriff’s Retirement System**, the **Saint Louis Police Department**, the **Phelps County Sheriff**, and **Hermann Area Hospital District** each assume the proposal will have no fiscal impact on their respective organizations.

In response to the previous version of this proposal, officials from the **City of Springfield**, the **Phelps County Sheriff**, the **Kansas City Police Department**, the **Springfield Police Department**, and the **Saint Louis Police Department** each assumed the proposal will have no fiscal impact on their respective organizations.

Rule Promulgation:

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 (SOS)** note 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 \$5,000. 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 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.

Oversight assumes SOS is provided with core funding to handle a certain amount of activity each year. **Oversight** assumes SOS could absorb the costs related to this proposal. Therefore, Oversight will reflect zero fiscal impact on the fiscal note for above agenc

<u>FISCAL IMPACT – State Government</u>	FY 2023	FY 2024	FY 2025
GENERAL REVENUE			
<u>Cost – DOLIR – Human Relation Officer to deal with influx of claims (p.3)</u>			
Salary	\$0 or (\$34,042) Up to (\$68,083)	\$0 or (\$41,667) Up to (\$83,334)	\$0 or (\$42,500) Up to (\$85,001)
Fringe Benefits	\$0 or (\$23,500) Up to (\$47,000)	\$0 or (\$28,764) Up to (\$57,528)	\$0 or (\$29,043) Up to (\$58,086)
Equipment & Expense	\$0	\$0	\$0
<u>Total Cost - DOLIR</u>	\$0 or Up to (\$115,083)	\$0 Up to (\$140,862)	\$0 Up to (\$143,087)
FTE Total	0 or 1 to 2	0 or 1 to 2	0 or 1 to 2
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	<u>\$0 or Up to (\$115,083)</u>	<u>\$0 Up to (\$140,862)</u>	<u>\$0 Up to (\$143,087)</u>
Net Effect to FTE	1 to 2	1 to 2	1 to 2
FEDERAL FUNDS			
<u>Loss of Revenue DMH – Medicaid & Medicare Funds (p.3,4)</u>	(Unknown)	(Unknown)	(Unknown)
<u>Loss of Revenue - DPS-MVC– Recapture Provisions (p.5)</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Loss of Revenue Medicaid & Medicare Funds - University Missouri System (p.5)</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>FISCAL IMPACT – Local Government</u>	FY 2023	FY 2024	FY 2025
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses servicing state agencies, colleges, universities, and political subdivisions will be required to comply with revised sections. If a small business fails to comply, they could be held liable for those actions as a result of this proposal.

FISCAL DESCRIPTION

PUBLIC ACCOMMODATIONS

(Section 67.308)

This act modifies the current law prohibiting political subdivisions from requiring a COVID-19 vaccination to access transportation systems, services, or public accommodations. Under this act, no public or private entity receiving public funds or any other public accommodation shall require documentation of a COVID-19 vaccination to access transportation systems, facilities, services, or public accommodations, as defined in the act.

K-12 STUDENTS

No student shall be required, as a condition of school attendance or participation in school-sponsored extracurricular activities, to be immunized against COVID-19 or to undergo any testing policy as an alternative to a COVID-19 vaccination. No public institution of higher education shall require a COVID-19 vaccine or COVID-19 diagnostic testing for a student to access facilities, services, or activities, including in-class attendance. This provision expires December 31, 2027.

PUBLIC INSTITUTIONS OF HIGHER EDUCATION

(Section 174.336)

The act prohibits public institutions of higher education from requiring a COVID-19 vaccine or COVID-19 diagnostic testing in order for a student to access facilities, services, or activities, including in-class attendance. This provision expires on December 31, 2027.

CHILD CARE CENTERS

(Section 210.003)

No child attending any day care center, pre-school, or nursery school shall be required to receive a COVID-19 vaccine as a condition of attendance until December 31, 2027.

REASONABLE ACCOMMODATIONS FOR EMPLOYEES

(Section 213.055)

The act makes it an unlawful employment practice for an employer to require employees to receive a COVID-19 vaccination as a condition of employment without permitting employees to be exempted for religious, moral, ethical, or philosophical beliefs or for medical reasons, including pregnancy, or previous exposure to and recovery from COVID-19. The employer shall not require the employee to provide any explanations or proof regarding his or her religious, moral, ethical, or philosophical beliefs or medical conditions relating to requesting the vaccination exemption. The Commission on Human Rights shall develop and make available to employers and employees a form that employees may use to request an exemption. No employer shall require an employee to undergo testing as an alternative to a COVID-19 vaccination. This provision expires December 31, 2027.

This act contains an emergency clause.

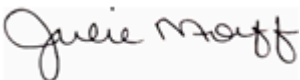
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

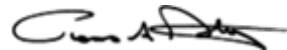
Office of Administration
Office of Administration – Budget & Planning
Department of Commerce and Insurance
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Natural Resources
Missouri Department of Agriculture
Department of Corrections
Department of Revenue
Department of Public Safety –
Director’s Office
National Guard
Highway Patrol
State Emergency Management
Alcohol & Tobacco
Missouri Department of Conservation
Department of Social Services
Missouri Department of Transportation
Office of the State Auditor
Missouri Department of Agriculture
Office of the State Treasurer
House of Representatives

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Joint Committee on Public Employee Retirement
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Joint Committee on Administrative Rules
Office of the Secretary of State
Missouri Senate
Missouri Consolidated Health Care Plan
Missouri Office of Prosecution Services
Missouri State Employee's Retirement System
State Tax Commission
City of Kansas City
City of O'Fallon
Kansas City Employee's Retirement System
Kansas City Firefighter's Pension System
Kansas City Supplemental Retirement Plan
Metro St. Louis Sewer District Employees Pension Plan
Sheriff's Retirement System
Saint Louis Police Department
Phelps County Sheriff



Julie Morff
Director
March 8, 2022



Ross Strobe
Assistant Director
March 8, 2022