

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0239S.01I  
 Bill No.: SB 60  
 Subject: Civil Rights; Employees - Employers; Housing; Department of Labor and Industrial Relations  
 Type: Original  
 Date: January 23, 2023

Bill Summary: This proposal prohibits discrimination based on sexual orientation or gender identity.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	Could exceed (\$62,221 ) to (\$128,041)	Could Exceed (\$73,904) to (\$147,807)	Could Exceed (\$75,086) to (\$150,172))
<b>Total Estimated Net Effect on General Revenue</b>	<b>Could exceed (\$62,221 ) to (\$128,041)</b>	<b>Could Exceed (\$73,904) to (\$147,807)</b>	<b>Could Exceed (\$75,086) to (\$150,172))</b>

\*The amounts reflected for General Revenue are for the additional FTE for the Department of Labor and Industrial Relations. Additional GR costs could be incurred if the state is required to pay settlements to/from the Legal Expense Fund. The fiscal impact could exceed the \$250,000 threshold.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Various State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Legal Expense Fund*	\$0	\$0	\$0
College and Universities	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

\*Transfers in and Payments out will net to zero.  
 Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
General Revenue Fund	1 to 2 FTE	1 to 2 FTE	1 to 2 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>1 to 2 FTE</b>	<b>1 to 2 FTE</b>	<b>1 to 2 FTE</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>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Local Political Subdivisions	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Local Government</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume this legislation creates additional causes of action related to discrimination. This legislation also appears to create an additional legal standard for what constitutes discrimination. It is assumed that implementation of the lower burden of proof standard set forth in Section 213.010(6) (acts "based on" rather than "because of" discriminatory intent) would result in more Missouri Human Rights Act claims being made against businesses and state agencies and that such litigation would result in significant costs.

The Missouri Commission on Human Rights (MCHR) contacted several states that already include sexual orientation and gender identity in protected status including Illinois, Iowa, Colorado, and Minnesota; as well as the Federal Equal Employment Opportunity Commission (EEOC) to gather statistics regarding complaints filed on sexual orientation/gender identity. Based on 2017 data, an average of 6.3% of total complaints of discrimination were due to sexual orientation or gender identity.

Using this assumption, the projected number of additional complaints for FY 2024 is estimated at 88. (1,391 [FY 2018 total complaints less housing cases] X 6.3% = 87.633). 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 or two additional Human Relations Officers.

**Oversight** notes the DOLIR has stated the proposal would have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a DOLIR's cost of 1 or 2 FTE (Human Relation Officer at \$43,400 annually) in the fiscal note.

Officials from the **Office of Administration (OA)** note:

Section(s) 213.010, 213.055 and 213.070 have the potential to increase costs to the state Legal Expense Fund (LEF) for actions alleging discrimination against a state employee in connection with their official duties on behalf of the state, due to the addition of an unlawful discriminatory practice. This change will be subject to judicial construction; therefore, the cost impact to the state is unknown.

The state self-assumes its own liability under the 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 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.

**Oversight** notes most LEF costs are reimbursed from the General Revenue Fund (GR). GR has paid for the majority of payments from the LEF since payments on LEF cases for agencies with designated reimbursable funds have been relatively small.

Officials from the **Department of Corrections (DOC)** note:

This proposal modifies provisions relating to discrimination based on sexual orientation or gender identity.

The language added to Section 213.010(6) could expand the number of claims filed against the DOC. It is unknown how many claims would be filed; therefore, the department is unable to project a fiscal cost and assume a (\$0 - Unknown) impact.

In response to the similar proposal, SB 81 (2021), officials from the **Attorney General's Office (AGO)** assumed that this proposal will have \$0 to unknown negative fiscal impact because the potential increase in civil litigation cases.

**Oversight** notes the AGO has stated the proposal would have a direct fiscal impact on the organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect an AGO's cost on the fiscal note.

**Oversight** notes most LEF costs are reimbursed from the General Revenue Fund (GR). GR has paid for the majority of payments from the LEF since payments on LEF cases for agencies with designated reimbursable funds have been relatively small.

\$250,000 Threshold:

In response to the similar proposal, SB 81 (2021), data provided by the **Office of Administration's Risk Management (OARM)** assumed the average payment for discrimination claims was approximately \$292,500 (67 discriminations claims/\$19.7 million in discrimination claims paid by the LEF from FY 2015-2018 Data). If this proposal resulted in one additional claim per year at a similar payout, the cost for individual claim could exceed \$292,500 (counting for inflation cost since 2018) in each case of additional liability. Furthermore, agencies are allowed to use various Federal and Other State Funds depending on the specific claim.

However, **Oversight** notes the cost of any potential liability would be entirely dependent of the number of claims and circumstances of the claims filed; therefore the cost is ultimately unknown. Therefore, for purpose of this fiscal note, **Oversight** will range the cost to various state agencies from \$0 (no claim payments) to Unknown (does increase costs related to sexual orientation and /or gender identity lawsuits) to GR, Federal, and various Other State Funds in the fiscal note.

Officials from the **Northwest Missouri State University** assume the proposal would have a financial impact if this policy was violated. The financial impact would be the legal cost associated with a claim as well as any funds that had to be paid to the employee (Estimated \$20,000 - \$100,000).

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

**Oversight** notes the officials from the **Northwest Missouri State University** and the **University of Central Missouri** both assume the proposal could have a direct fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary; therefore, **Oversight** will range the impact from \$0 (does not increase costs) to an “Unknown” (does increase costs related to sexual orientation and /or gender identity lawsuits) for above organizations in the fiscal note.

Officials from the **City of Kansas City** assume this proposal could have a negative fiscal impact on the City of Kansas City, Missouri, in an indeterminate amount if it increases the City's exposure to liability.

**Oversight** notes the officials from the **City of Kansas City** assume the proposal could have direct fiscal impact on their organization. **Oversight** does not have any information to the contrary; therefore, **Oversight** will range the impact from \$0 (does not increase costs) to an “Unknown” (does increase costs related to sexual orientation and /or gender identity lawsuits) on the fiscal note.

Officials from the **City of Springfield** 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 this City.

Officials from 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 Health and Senior Services**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety (Office of the Director, Capitol Police, Alcohol & Tobacco Control, Fire Safety, Gaming Commission, Missouri Highway Patrol, Missouri National Guard, State Emergency Management Agency and Veterans Commission)**, the **Department of Social Services**, the **Office of the Governor**, the **Joint Committee on Public Employee Retirement**, the **Missouri Lottery Commission**, the **Missouri Consolidated Health Care Plan**, the **Department of Agriculture**, the **Missouri Department of Conservation**, the **Missouri Ethics Commission**, the **Missouri House of Representatives**, the **Department of Transportation**, the **Office of Prosecution Services**, the **Office of Administration (Administrative Hearing Commission and Budget and Planning)**,

the **Office of the State Courts Administrator**, the **Office of the State Auditor**, the **Missouri Senate**, the **Office of the State Public Defender**, the **Office of the State Treasurer** and the **State Tax Commission** each assume 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 these agencies

#### 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 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, 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, 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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<u>Cost - DOLIR 1 or 2 (Human Relations Officer (p.3)</u>			
Salary (PS)	(\$36,167) to (\$72,333)	(\$44,268) to (\$88,536)	(\$45,153) to (90,307)
Fringe Benefits	(\$24,454) to (\$48,908)	(\$29,636) to (\$59,271)	(\$29,932) to (\$59,865)
Equipment and Expense (E&E)	<u>(\$1,600) to (\$6,800)</u>	<u>(\$0)</u>	<u>(\$0)</u>
<u>Total Cost – DOLIR</u>	<u>Could exceed (\$62,221 ) to (\$128,041)</u>	<u>Could Exceed (\$73,904) to (\$147,807)</u>	<u>Could Exceed (\$75,086) to (\$150,172))</u>
FTE Change – DOLIR	1 or Up to 2 FTE	1 or Up to 2 FTE	1 or Up to 2 FTE
<u>Cost - AGO Potential Increase in litigation costs (p.4)</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT TO GENERAL REVENUE FUND</b>	<b><u>Could exceed (\$62,221) to (\$128,041)</u></b>	<b><u>Could Exceed (\$73,904) to (\$147,807)</u></b>	<b><u>Could Exceed (\$75,086) to (\$150,172))</u></b>
Estimated Net FTE Change to the General Revenue Fund	1 to 2 FTE	1 to 2 FTE	1 to 2 FTE
<b>OTHER STATE FUNDS</b>			
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims (p.3,4)</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>FEDERAL FUNDS</b>			
Cost - Potential increase in claims to LEF (p.4)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO FEDERAL FUNDS</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>
<b>LEGAL EXPENSE FUND (0692)</b>			
Transfer In - from GR, Federal, and Other State Funds (Potential increase in claims) (p.4)	\$0 to <u>unknown</u>	\$0 to <u>unknown</u>	\$0 to <u>unknown</u>
Transfer Out - payment of discrimination claim (p.4)	\$0 to <u>(unknown)</u>	\$0 to <u>(unknown)</u>	\$0 to <u>(unknown)</u>
<b>ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>COLLEGES AND UNIVERSITIES</b>			
Cost - Colleges and Universities Potential increase in claims (p.5)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>
<b>FISCAL IMPACT – Local Government</b>	<b>FY 2024 (10 Mo.)</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
Cost Potential increase in discrimination claims (p.5)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>



### FISCAL IMPACT – Small Business

Small businesses will be required to comply with the revised sections in employment and public accommodation. If a small business fails to comply, it could be held liable for those actions, incurring additional costs to defend against such discrimination claims.

### FISCAL DESCRIPTION

This act prohibits discrimination based upon a person's sexual orientation or gender identity. Such discrimination includes unlawful housing practices, denial of loans or other financial assistance, denial of membership into an organization relating to the selling or renting of dwellings, unlawful employment practices, and denial of the right to use public accommodations. Discrimination is defined to include any unfair treatment based on a person's presumed or assumed race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, age as it relates to employment, disability, or familial status as it relates to housing, regardless of whether the presumption or assumption as to such characteristic is correct.

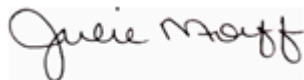
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION


Department of 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 Mental Health  
Department of Natural Resources  
Department of Corrections  
Department of Labor and Industrial Relations  
Department of Revenue  
Department of Public Safety  
Department of Social Services  
Office of the Governor  
Joint Committee on Public Employee Retirement  
Joint Committee on Administrative Rules  
Missouri Lottery Commission  
Legislative Research  
Oversight Division  
Missouri Consolidated Health Care Plan  
Missouri Department of Agriculture  
Missouri Department of Conservation

L.R. No. 0239S.01I  
Bill No. SB 60  
Page **10** of **10**  
January 23, 2023

Missouri Ethics Commission  
Missouri House of Representatives  
Office of the Lieutenant Governor  
Missouri Department of Transportation  
Missouri State Employee's Retirement System  
MoDOT & Patrol Employees' Retirement System  
Missouri Office of Prosecution Services  
Office of Administration  
Office of the State Courts Administrator  
Office of the State Auditor  
Missouri Senate  
Office of the Secretary of State  
Office of the State Public Defender  
Office of the State Treasurer  
State Tax Commission  
City of Kansas City  
City of Springfield  
Northwest Missouri State University  
University of Central Missouri  
Missouri University System



Julie Morff  
Director  
January 23, 2023



Ross Strobe  
Assistant Director  
January 23, 2023