

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0976S.01I  
 Bill No.: SB 201  
 Subject: Children and Minors; Education, Elementary and Secondary; Education, Higher;  
 Employees - Employers; Department of Health and Senior Services; Health,  
 Public; Political Subdivisions  
 Type: Original  
 Date: March 27, 2023

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	\$0 or Could exceed (\$132,170)	\$0 or Could exceed (\$152,829)	\$0 or Could exceed (\$155,262)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or Could exceed (\$132,170)</b>	<b>\$0 or Could exceed (\$152,829)</b>	<b>\$0 or Could exceed (\$155,262)</b>

\*Oversight notes this proposal could possibly create exposure for the state government and/or local political subdivisions. Additionally, the expense reflects up to 2 Human Rights Officers for DOLIR.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Other State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Legal Expense Fund*	\$0	\$0	\$0
Colleges and Universities	\$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)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

Numbers within parentheses: () indicate costs or losses.

\*LEF will net to zero.

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

\*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.

<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	0 or 2 FTE	0 or 2 FTE	0 or 2 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>0 or 2 FTE</b>	<b>0 or 2 FTE</b>	<b>0 or 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 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>Local Government</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the Missouri Commission on Human Rights (MCHR) statistical data has shown as an increase in complaints related to vaccines and masks. That complied with having MCHR create and distribute a form for individuals and companies for this unlawful employment practice. This would require an additional FTE for the majority of work that would be done by a Human Rights Officer. DOLIR estimated a potential need for up to 2 additional FTE.

**Oversight** notes the DOLIR assumed the proposal will have a direct fiscal impact. Oversight does not have any information to the contrary. Therefore, Oversight will reflect an impact in the fiscal note for \$0 (no additional claims are being filed) or Up to 2 FTE - Human Rights Officer at \$43,400 annually (if more than 100 additional claims are being filed).

Officials from the **Department of Mental Health (DMH)** assume this proposal prohibits any employer, private or public, from conditioning employment or continued employment on COVID-19 vaccination. CMS expects all facilities' staff to have received vaccination unless exempted as required by law. Facility staff vaccination rates under 100% constitute non-compliance (CMS guidance QSO-23-02-ALL). CMS rule currently allows for exemption in certain circumstances. However, in the event that CMS removes exemption option for vaccination, this may put some Department of Mental Health (DMH) facilities and agencies at odds with federal requirements for licensure and/or CMS funding.

This will have an unknown impact on DMH.

Officials from the DMH assume the proposal will 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 2021. 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, MVC's pharmacy vendor, skilled therapy vendor, dietary service vendor, wound care vendor, 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 its Veterans Homes if it 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. MVC’s 5 previous projects totaled \$28.7 million in federal dollars. The average revenue received over a 3 year period is \$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”.

**Oversight** notes that officials from the DPS-MVC 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 DPS-MVS’s potential reduction in Federal Revenues from \$0 to (Unknown) in the fiscal note.

Officials from the **Office of Administration (OA)** assume the proposal has 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.

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 regards 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 officials from OA assume this provision may prompt causes of action against various state agencies. If the state is found liable, there may be additional payouts from the State Legal Expense Fund.

Therefore, **Oversight** notes the fiscal impact to the Legal Expense Fund will net to \$0 due to transfer in from General Revenue, Federal Funds, and Other State Funds for various state agencies.

Officials from the **University of Central Missouri** assume the proposal will have direct indeterminate fiscal impact due to uncertainty of application.

**Oversight** notes that this provision may prompt causes of action against the colleges and universities throughout Missouri for violations of this proposal. If the colleges and universities are found liable, there may be additional payouts from those colleges and universities.

Officials from the **Office of Administration - (Administrative Hearing Commission and Budget and 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 Natural Resources**, **Department of Corrections**, the **Department of Revenue**, the **Department of Public Safety (Division of Alcohol and Tobacco Control, Capitol Police, Fire Safety, Office of the Director, Missouri Gaming Commission, Missouri Highway Patrol, National Guard, and State Emergency Management Agency)**, the **Missouri Department of Agriculture**, the **Missouri Department of Conservation**, the **Missouri Ethics Commission**, **Missouri Department of Transportation**, the **MoDOT & Patrol Employees' Retirement System**, the **Petroleum Storage Tank Insurance Fund**, the **Office of the State Public Defender**, the **Office of the Governor**, **Office of the State Auditor**, the **Office of the State Treasurer**, **Missouri Senate**, the **Missouri House of Representatives**, the **Joint Committee on Administrative Rules**, **Joint Committee On Education**, the **Joint Committee on Public Employee Retirement**, **Legislative Research**, the **Oversight Division**, the **Missouri Senate**, the **Missouri Lottery Commission**, the **Missouri Consolidated Health Care Plan**, the **Missouri Higher Education Loan Authority**, the **Missouri State Employee's Retirement System** and the **State Tax Commission** 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.

Officials from the **University of Missouri System**, the **Northwest Missouri State University**, the **City of Kansas City**, the **City of Springfield**, the **Phelps County Sheriff**, the **Kansas City Police Department**, the **Saint Joseph Police Department**, and the **Saint Louis Police Department** each assume the proposal will have no direct fiscal impact on their respective organizations.

**Oversight** notes that this provision may prompt causes of action against various political subdivisions throughout the Missouri for violations of this proposal. Additionally, the various employers will be required to pay unemployment insurance to those employees that currently do not qualify for these benefits. If the organizations is found liable, there may be additional payouts from local governments.

Therefore, **Oversight** will range the cost to political subdivisions from \$0 (does not increase litigation) to an Unknown cost (increased claims related to unlawful practices) for the various political subdivisions in the fiscal note.

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.

<u>FISCAL IMPACT – State Government</u>	FY 2024	FY 2025	FY 2026
<b>GENERAL REVENUE</b>			
<u>Cost</u> -- Potential increase in payments to Legal Expense Fund for increase in claims\$ (p.4)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<u>Costs – DOLIR (page 3)</u>	\$0 Up to	\$0 Up to	\$0 Up to
Personnel Service	(\$72,333)	(\$88,536)	(\$90,307)
Fringe Benefits	(\$53,037)	(\$64,293)	(\$64,956)
Expense & Equipment	(\$6,800)	\$0	\$0.
<u>Total Costs – DOLIR</u>	<u>(\$132,170)</u>	<u>(\$152,829)</u>	<u>(\$155,262)</u>
FTE Change	0 to 2 FTE	0 to 2 FTE	0 to 2 FTE
<b>ESTIMATED NET EFFECT TO GENERAL REVENUE FUND</b>	<b>\$0 or Could exceed <u>(\$132,170)</u></b>	<b>\$0 or Could exceed <u>(\$152,829)</u></b>	<b>\$0 or Could exceed <u>(\$155,262)</u></b>

<u>FISCAL IMPACT – State Government</u> <u>(continued)</u>	FY 2024	FY 2025	FY 2026
<b>OTHER STATE FUNDS</b>			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (p.3)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO OTHER STATE FUNDS</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>
<b>FEDERAL FUNDS</b>			
<u>Loss of Revenue</u> DMH – Medicaid & Medicare Funds (p.3,4)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Loss of Revenue</u> - DPS-MVC– Recapture Provisions (p.4)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<u>Loss of Revenue</u> Medicaid & Medicare Funds - University Missouri System (p.4)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<u>Cost</u> - Potential increase in LEF claims	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO FEDERAL FUNDS</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>
<b>LEGAL EXPENSE FUND (0692)</b>			
<u>Transfer In</u> - from GR, Federal, and Other State Funds - Potential increase in claims (p.4)	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Transfer Out</u> - payment of discrimination claims (p.4)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <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>			
<u>Cost - Colleges and Universities Potential increase in claims (p.4)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024	FY 2025	FY 2026
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost Potential increase in claims (p.5)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>

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 (Section 167.181)

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, 2028.

#### 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, 2028.

#### 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, 2028.

#### 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, 2028.

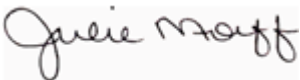
This act contains an emergency clause.

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  
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  
Department of Corrections  
Department of Revenue  
Department of Public Safety  
Missouri Department of Agriculture

Missouri Department of Conservation  
Missouri Ethics Commission  
Missouri Department of Transportation  
MoDOT & Patrol Employees' Retirement System  
Office of Administration  
Petroleum Storage Tank Insurance Fund  
Office of the State Public Defender  
Office of the Governor  
Office of the State Auditor  
Office of the State Treasurer  
Missouri Senate  
Missouri House of Representatives  
Joint Committee on Education  
Joint Committee on Public Employee Retirement  
Legislative Research  
Oversight Division  
Missouri Lottery Commission  
Missouri Consolidated Health Care Plan  
Missouri Higher Education Loan Authority  
Missouri State Employee's Retirement System  
State Tax Commission  
Missouri University System  
Central Missouri University  
Northwest Missouri State University  
City of Kansas City  
City of Springfield  
Phelps County Sheriff  
Kansas City Police Department  
Saint Joseph Police Department  
Saint Louis Police Department



Julie Morff  
Director  
March 27, 2023



Ross Strobe  
Assistant Director  
March 27, 2023