

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5070S.01I
 Bill No.: SB 1039
 Subject: Civil Procedure; Courts; Evidence; Liability
 Type: Original
 Date: February 3, 2026

Bill Summary: This proposal establishes provisions relating to alternative dispute resolution.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

| FUND AFFECTED | FY 2027 | FY 2028 | FY 2029 |
|--|-------------------------|-------------------------|-------------------------|
| General Revenue* | \$0 or (Unknown) | \$0 or (Unknown) | \$0 or (Unknown) |
| Total Estimated Net Effect on General Revenue | \$0 or (Unknown) | \$0 or (Unknown) | \$0 or (Unknown) |

*OSCA potential unknown costs assumed to be less than \$250,000 annually.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS

| FUND AFFECTED | FY 2027 | FY 2028 | FY 2029 |
|---|------------|------------|------------|
| 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 2027 | FY 2028 | FY 2029 |
|---|------------|------------|------------|
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

| FUND AFFECTED | FY 2027 | FY 2028 | FY 2029 |
|--|----------|----------|----------|
| | | | |
| | | | |
| 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 2027 | FY 2028 | FY 2029 |
|-------------------------|------------|------------|------------|
| | | | |
| | | | |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Attorney General's Office** did not respond to **Oversight's** request for fiscal impact for this proposal.

§§435.300, 435.303, 435.306, 435.309, and 435.312 – Alternative Dispute Resolution

In response to similar legislation, SB 256 (2025), officials from the **Office of the State Courts Administrator (OSCA)** stated the proposal may have some fiscal impact but there is no way to quantify the impact at the present time. Any significant changes will be reflected in future budget requests.

Oversight notes OSCA assumes this proposal may have some impact on their organization although it can't be quantified at this time. As OSCA is unable to provide additional information regarding the potential impact, Oversight assumes the proposed legislation will have a \$0 or (Unknown) cost to the General Revenue Fund. For fiscal note purposes, Oversight also assumes the impact will be under \$250,000 annually. If this assumption is incorrect, this would alter the fiscal impact as presented in this fiscal note. If additional information is received, Oversight will review it to determine if an updated fiscal note should be prepared and seek approval to publish a new fiscal note.

Officials from the **Department of Commerce and Insurance, Department of Health and Senior Services, Department of Mental Health, Department of Public Safety - Missouri Highway Patrol, Department of Social Services, Missouri Department of Conservation, Missouri Department of Transportation, and Office of Administration** 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.

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.

| <u>FISCAL IMPACT – State Government</u> | FY 2027 (10 Mo.) | FY 2028 | FY 2029 |
|--|------------------------------------|------------------------------------|------------------------------------|
| GENERAL REVENUE | | | |
| <u>Cost – OSCA (§§435.300 to 435.312)</u> Potential increase in court costs p.3 | \$0 or <u>(Unknown)</u> | 0 or <u>(Unknown)</u> | 0 or <u>(Unknown)</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE | \$0 or <u>(Unknown)</u> | \$0 or <u>(Unknown)</u> | \$0 or <u>(Unknown)</u> |

| <u>FISCAL IMPACT – Local Government</u> | FY 2027 (10 Mo.) | FY 2028 | FY 2029 |
|---|---------------------|-------------------|-------------------|
| | | | |
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act establishes provisions relating to procedures for alternative dispute resolution ("ADR") processes. A court may refer, by either rule or order, any individual civil case or category of civil cases to any nonbinding ADR process. Within 30 days of referral, the parties may:

- 1) Notify the court that the parties have chosen pursuant to a written agreement to pursue an ADR process different from the ADR process chosen by the court;
- (2) Notify the court that the parties have agreed to delay such ADR process until a date certain;
or
- (3) If any party, after conferring with the other parties, concludes that the ADR process has no reasonable chance of helping the parties understand or resolve a procedural or substantive issue or if there is a compelling circumstance, the party may file a motion to not participate in the ADR process.

Once a motion has been filed, the ADR process shall not occur until a ruling and, if granted, the matter shall not be referred without compelling circumstances. In any action referred to an ADR

process, discovery may proceed in any other action before, during, and after the ADR process, except the court may stay discovery to promote savings in time and expense.

A neutral individual ("neutral") appointed by the court or requested by the parties to serve in the ADR process shall avoid any conflict of interest. Even if the neutral believes that no disqualifying conflict exists, the neutral shall:

- (1) Before agreeing to serve, make a reasonable inquiry to determine whether there are facts that would cause a reasonable person to believe that the neutral has a conflict of interest;
- (2) As soon as practicable, disclose reasonably known facts relevant to any conflicts of interest; and
- (3) After accepting a designation, disclose any previously undisclosed information that could reasonably suggest a conflict of interest.

After disclosure of a conflict, the ADR process may proceed if all parties have agreed in writing or if the organization administering the ADR process determines under the parties' written agreement that the neutral may continue to serve. Any party believing a court-appointed neutral has a conflict of interest may request for the neutral to recuse himself or may file a motion for disqualification. Additionally, the court may require a change of a neutral if necessary to protect the rights of an unrepresented party.

ADR communications, as defined in the act, shall not be admissible as evidence in any proceeding or subject to discovery. However, evidence that is otherwise admissible or subject to discovery shall not be inadmissible or protected from discovery solely because of its disclosure or use in the ADR process. Additionally, a court may admit communications, upon motion by a party and following a hearing, if the court finds that the communication is relevant and admissible and was:

- (1) Made in the presence of a mandated reporter and pertains to abuse or neglect that such mandated reporter is required to report;
- (2) A substantial threat or statement of a plan to inflict bodily injury capable of causing death or substantial bodily harm that is reasonably certain to occur;
- (3) Intentionally used to plan a crime, attempt to commit a crime, or to conceal an ongoing crime; or
- (4) Necessary to establish or defend against a professional misconduct or malpractice claim that is based on conduct occurring during the ADR process.

If requested by a party or if necessary to ensure confidentiality, the hearing shall be conducted in the judge's chambers. A participant, including the neutral, has standing to intervene in any proceedings in order to object to the admissibility of communications made by such participant.

Additionally, this act provides that no neutral, or agent or employee of the neutral or of the neutral's organization, shall be subpoenaed or compelled to disclose any ADR communication. No neutral who is a licensed attorney shall be required to disclose any ADR communication of which a reporting obligation in the rules of professional conduct of attorneys might otherwise apply. However, a neutral may be subpoenaed to enforce a written settlement agreement, but

only to testify that the parties signed such agreement in his or her presence. The court may order the party seeking admission of an ADR communication to pay the costs and fees of the neutral or any other participant who intervenes to contest the admission or who responds to a subpoena regarding the ADR communications.

Unless a written agreement provides for a binding ADR process, the processes conducted pursuant to this act shall be nonbinding. Furthermore, this act shall not preclude any court from referring any matter to a nonbinding ADR process.

This act shall only apply to ADR processes referred by court order or rule or by a written agreement of the parties expressly providing for this act to apply. This act is not intended to undermine the right to a jury trial nor does this act require any party to settle any claim or attend a mediation with counsel.

If the court has not referred the parties to an ADR process or if the parties elect not to use the provisions of this act, the process shall be regarded as settlement negotiations. If the parties have agreed in writing to an ADR process but have not invoked the provisions of this act, the neutral shall not be subpoenaed or otherwise compelled to disclose any matter revealed in the setting up or conducting of such ADR process. Finally, this act requires all settlement agreements to be in writing.

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 Health and Senior Services
Department of Mental Health
Department of Public Safety - Missouri Highway Patrol
Department of Social Services
Missouri Department of Conservation
Missouri Department of Transportation
Office of Administration
Office of the State Courts Administrator
Office of the Secretary of State
Joint Committee on Administrative Rules

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