

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0610-01
Bill No.: SB 84
Subject: Health Care Professionals; Health Care; Hospitals; Medical Procedures and Personnel; Abortion
Type: Original
Date: January 18, 2013

Bill Summary: This proposal provides for the conscience rights of individuals who provide medical services.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Risk Management, General Services Division (RM/GS)** provide the following assumptions:

191.1153.3 - Discrimination against a medical professional

If a state employee discriminates against any medical professional under this section, then there would be a potential cost to the Legal Expense Fund.

191.1153.4 - Discrimination for certain actions against a professional

If a professional is refused board certification, receives a demotion, experiences a loss of career specialty, a reduction of wages or benefits, receives a refusal to be awarded any grant, contract or other program, is refused residency training opportunities, or receives any other penalty, disciplinary, or retaliatory action because the medical professional refuses to participate in a specified medical procedure or research, then there is a potential cost to the State Legal Expense Fund.

191.1156.4 - Discrimination as a result of the denial of assistance

If a state employee denies any form of aid, assistance, grants, or benefits and discriminates against any person, association, corporation, or other entity attempting to establish a new health care institution or operating an existing health care institution because the existing or proposed health care institution declines to participate in medical services contrary to the health care institution's conscience, then there is a potential cost to the State Legal Expense Fund.

191.1165.2 - Commencement of civil actions

If a state employee is in violation of the above, then civil action may be pursued and the aggrieved party shall be entitled to recover threefold the actual damages, including pain and suffering and reasonable attorney fees. Recovery will not be less than \$5,000 for each violation in addition to costs of action and reasonable attorney fees.

RM/GS officials assume the proposal would result in unknown costs to the General Revenue/State Legal Expense Fund.

ASSUMPTION (continued)

Oversight assumes the potential for civil action to be speculative and absorbable within current funding levels of the General Revenue/State Legal Expense Fund. However, if additional resources are needed, the GS/RM may request additional funding through the appropriations process.

Officials from the **University of Missouri (University)** state no fiscal impact for this proposal can be calculated at this time. Creating a cause of action for health care providers that does not presently exist could expose the University to defense and liability costs in the event that a health care worker brings an action against the University or its officials under the statute. However, it is not possible to determine the likelihood of such actions or the amount of such defense or potential liability costs at this time.

Oversight assumes potential litigation to be speculative. Therefore, **Oversight** assumes the proposal will have no fiscal impact on the University.

Officials from the **Department of Social Services (DSS) - MO HealthNet Division (MHD)** state in the provider participation section of the fee-for-service provider manuals, a MO HealthNet provider must comply with all laws, policies, and regulations of Missouri and the federal government. It further states that a provider must also comply with the standards and ethics of his or her business or profession to qualify as a participant in the program.

Managed care contracts include language which prohibits the health plan from requiring a provider to perform a service contrary to the provider's conscience and allows the provider to make a referral to another health care provider licensed to provide the appropriate care. Therefore, there is no fiscal impact to the MHD.

Officials from the **Department of Mental Health (DMH)** state "specified medical procedures or research" is defined as: abortion, abortion-inducing drugs, contraception, sterilization which is not medically necessary, assisted reproduction, human cloning, human embryonic stem-cell research, human somatic cell nuclear transfer, fetal tissue research, and non-therapeutic fetal experimentation. Since the DMH does not participate in such specified medical procedures or research, there should not be a fiscal impact to the department.

Officials from the **Office of Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed with existing resources. However, if multiple proposals or significant litigation results, the AGO may seek an additional future appropriation.

ASSUMPTION (continued)

Officials from the **Department of Higher Education (DHE)** state the proposal would have no direct, foreseeable fiscal impact on the DHE.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal will have no measurable fiscal impact on the OPS.

Officials from the **Office of State Courts Administrator, the Department of Insurance, Financial Institutions, and Professional Registration, the Department of Health and Senior Services, the Department of Labor and Industrial Relations, the Missouri Consolidated Health Care Plan, the Missouri Department of Conservation, the Harrison County Health Department, Missouri State University, Missouri Southern State University, and Barton County Memorial Hospital** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the potential fiscal impact of this proposal on their organization.

Officials from the **Missouri Department of Transportation (MoDOT)** did not respond to **Oversight's** request for a statement of fiscal impact. However, in response to a similar bill from 2012 (SCS SB 657), MoDOT officials assumed the proposal would have no fiscal impact on their agency.

Officials from **Truman State University** did not respond to **Oversight's** request for a statement of fiscal impact.

No additional officials from **Hospitals** or **County Health Departments** responded to **Oversight's** request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small business health care providers could be negatively impacted if an employee refuses, on conscience rights, to provide a medical service as the provider may have to hire additional labor or forgo providing the service.

FISCAL DESCRIPTION

The proposed legislation appears to have no direct fiscal impact.

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 Attorney General
Office of Administration -
 Division of Risk Management/General Services
Office of State Courts Administrator
Department of Higher Education
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Social Services -
 MO HealthNet Division
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Consolidated Health Care Plan
Missouri Department of Conservation
Office of Prosecution Services
Missouri Southern State University
Missouri State University
University of Missouri

HWC:LR:OD

SOURCES OF INFORMATION (continued)

Harrison County Health Department
Barton County Memorial Hospital

Not Responding:

Missouri Department of Transportation
Truman State University



Ross Strobe
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