

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3974H.011  
Bill No.: HB 1710  
Subject: Medical Procedures and Personnel; Religion; Health, Public  
Type: Original  
Date: January 12, 2022

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Bill Summary: This proposal creates provisions related to certain experimental or investigational medical treatments.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
General Revenue Fund*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

\*Oversight notes this proposal could possibly create exposure for the state government and/or local political subdivisions.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
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 2023</b>	<b>FY 2024</b>	<b>FY 2025</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 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
All State and Federal	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
<b>Total Estimated Net Effect on FTE</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</b>	<b>Unknown to (Unknown)</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 2023</b>	<b>FY 2024</b>	<b>FY 2025</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

In response to the similar proposal, HB 1768 (3736H.01) 2022, officials from the **Department of Health and Senior Services (DHSS)** noted: The Division of Regulation and Licensure (DRL), Sections for Long Term Care Regulation and Health Standard and Licensure are responsible to regulate and conduct inspections in federally certified Long-Term Care Facilities, Hospitals and other healthcare facilities. DRL is required to enforce federal regulations in these healthcare facilities through a formal, written agreement with the Centers for Medicare and Medicaid Services (CMS). CMS recently published an Interim Final Rule requiring all staff in certified health care settings to receive the COVID vaccine. This legislation will restrict the ability of healthcare facilities to require staff to be vaccinated, which may result in them being terminated from the Medicare and Medicaid programs. DRL staff will no longer receive Medicare or Medicaid funding to regulate or conduct inspections in these facilities.

In Missouri, 510 out of 534 skilled nursing facilities and intermediate care facilities are certified to participate in Medicare and/or Medicaid. As a provider of Medicare/Medicaid, they are required to follow federal regulations and requirements, as directed by Centers for Medicare and Medicaid Services (CMS). Additionally, there are 8 hospitals in the state of Missouri with a certified Medicare and/or Medicaid skilled nursing facility unit within them.

On November 4, 2021, CMS posted in the Federal Register a requirement for Medicare and Medicaid-certified providers- requiring staff working in those settings to be fully vaccinated against COVID-19 by January 4, 2022- unless they have a medical or religious exemption. On November 29 and November 30, 2021, the United States District Court for the Eastern District of Missouri and United States District Court for the Western District of Louisiana issued preliminary injunctions against the implementation and enforcement of the Interim Final Rule against Medicare and Medicaid-certified providers. CMS has appealed both of these decisions, and has filed motions for stays of these orders. CMS has suspended activities related to the implementation and enforcement of this rule pending future developments in the litigation. If the United States District Court finds CMS has the authority to require vaccination of employees in certified nursing facilities and hospitals, providers will be placed in a position of either complying with the federal requirements for vaccination of their employees or terminating from Medicare and/or Medicaid or complying with section 191.716 or 292.644. Failure to comply with CMS' requirement could potentially affect 35,738 Missourians living in certified beds under Chapter 198 RSMo and up to 507 Missourians, living in SNF certified beds in hospitals requiring them to fund their stay privately or be discharged.

This proposed legislation could have an unknown up to \$15 million fiscal impact for the Division of Regulation and Licensure (DRL).

**Oversight** notes that Officials from the **Department of Health and Senior Services** 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 to Federal Funds from \$0 to Unknown in the fiscal note.

Officials from the **Department of Mental Health (DMH)** assume this bill creates a new unlawful discriminatory practice, specifically requiring anybody to receive a medication, vaccination, or injection that is not fully approved by the FDA. This bill also makes it unlawful to "harass, intimidate, or administer any punitive action" against a person who has religious, moral, or philosophical objections to such medication, vaccination, or injection. Finally, it dictates that individuals may seek legal remedy for violation of this section, including attorney fees. This requirement may put some Department of Mental Health (DMH) facilities and agencies at odds with federal requirements for licensure and/or CMS 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 will have direct fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a potential reduction in Federal Funds from \$0 to Unknown in the fiscal note.

Officials from the **Department of Public Safety – Missouri National Guard (DPS-MONG)** assume this proposal could jeopardize our federal contracts and would have a \$34,483,464.00 loss to the state based on yearly federal cooperative agreements and 394 state employee jobs lost.

**Oversight** notes that DPS-MONG assumes this proposal would have a direct fiscal impact on that agency. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a potential reduction of an Unknown amount of Federal Fund for above agency on the fiscal note.

Officials from the **Department of Public Safety – Veterans Commission (MVC)** 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, our 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 our Veterans Homes if we 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 Memorandum of Understanding between VA and MVC for 20 years.

Most projects take 2 years from start of design to end of construction. Our 5 previous projects total \$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 **University of Missouri System** note:

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.

**Oversight** notes that officials from the University of Missouri System 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 University of Missouri’s reduction in Federal Revenues ranging from \$0 to Unknown in the fiscal note.

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 state agencies, colleges, universities, and political subdivisions for violations of this proposal. If the state is found liable, there may be additional payouts from the State Legal Expense Fund.

**Oversight** will range the fiscal impact as reduction to the Legal Expense Fund from \$0 (does not increase litigation) to an “Unknown” cost (increased claims related to unlawful practices) for various colleges and universities in the fiscal note.

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

**Oversight** will range the fiscal impact as reduction to the local political subdivisions from \$0 (does not increase litigation) to an “Unknown” cost (increased claims related to unlawful practices) for various Local Political Subdivisions in the fiscal note.

Officials from the **Attorney General's Office, Office of Administration - (Administrative Hearing Commission and Budget and 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 Natural Resources, Department of Corrections, Department of Labor and Industrial Relations, Department of Revenue, Department of Public Safety (Division of Alcohol and Tobacco Control, Capitol Police, Fire Safety, Office of the Director, Missouri Gaming Commission, Missouri Highway Patrol and State Emergency Management Agency), Missouri Department of Agriculture, Missouri Department of Conservation, Missouri Ethics Commission, Missouri Department of Transportation, MoDOT & Patrol Employees' Retirement System, 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 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 **City of Springfield, Phelps County Sheriff, Kansas City Police Department and St. Louis County Police Department** each assume the proposal will have no fiscal impact on their respective organizations. Therefore, Oversight will reflect a zero impact in the fiscal note for these entities.

### 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 in the fiscal note for above agency.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>GENERAL REVENUE</b>			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO GENERAL REVENUE FUND</b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>	<b>\$0 or <u>(Unknown)</u></b>
<b>OTHER STATE FUNDS</b>			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims	\$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>
<u>FISCAL IMPACT – State Government</u> (continued)	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>FEDERAL FUNDS</b>			
<u>Loss of Revenue</u> DHSS - Division of Regulation and Licensure (DRL) (p.3-4)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<u>Loss of Revenue</u> DMH – Medicaid & Medicare Funds (p.4)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
Loss of Revenue DPS-MONG – Federal Contract	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
<u>Loss of Revenue</u> - DPS-MVC– Recapture Provisions (p.4-5)	\$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.5)	\$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><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>
<b>LEGAL EXPENSE FUND (0692)</b>			
<u>Transfer In</u> - from GR, Federal, and Other State Funds Potential increase in claims	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Transfer Out</u> - payment of discrimination claims	\$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>
<u>FISCAL IMPACT – State Government</u> (continued)	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>COLLEGES AND UNIVERSITIES</b>			
<u>Cost</u> - Colleges and Universities Potential increase in claims	\$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><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost</u> Potential increase in claims	\$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 above 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

This bill provides it is unlawful discriminatory practice to require any person to receive a medication, vaccination, or injection that has not been fully authorized by the US Food and Drug Administration, is allowed under an emergency use authorization, or is undergoing safety trials if the person objects on the basis of religious beliefs, moral convictions, or philosophical reasons. It is unlawful for any entity or person to harass, intimidate, or take punitive action against a person who objects to a medication, vaccination, or injection on the basis of religious beliefs, moral conviction, or philosophical reasons. A person that has been found by a court to be in violation of the provisions of this bill shall be liable for legal fees of the aggrieved party.

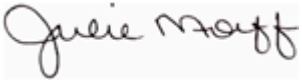
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

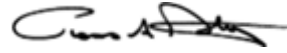
- Attorney General’s Office
- Office of Administration
- Administrative Hearing Commission
- Budget and Planning
- Department of Commerce and Insurance
- Department of Economic Development
- Department of Elementary and Secondary Education
- Department of Higher Education and Workforce Development
- Department of Health and Senior Services
- Department of Natural Resources

Department of Corrections  
Department of Revenue  
Department of Public Safety  
    Division of Alcohol and Tobacco Control  
    Capitol Police  
    Fire Safety  
    Office of the Director  
    Missouri Gaming Commission  
    Missouri Highway Patrol  
    State Emergency Management Agency  
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  
Office of the State Courts Administrator  
State Tax Commission  
City of Springfield  
Phelps County Sheriff  
Kansas City Police Department  
St. Louis County Police Department

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A handwritten signature in cursive script that reads "Julie Morff".

Julie Morff  
Director  
January 12, 2022

A handwritten signature in cursive script that reads "Ross Strobe".

Ross Strobe  
Assistant Director  
January 12, 2022