

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2816S.01I  
 Bill No.: SB 787  
 Subject: Civil Rights; Employees - Employers; Housing; Department of Labor and Industrial Relations,  
 Type: Original  
 Date: January 4, 2024

Bill Summary: This act 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 additional FTE for the Department of Labor and Industrial Relations. Additional GR costs could also be incurred if the state is required to pay settlements through 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>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
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>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
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>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
<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 creates a new Section 285.080 prohibiting employers from discriminating on the basis of sexual orientation and gender identity and 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 2023 is estimated at 68. (1,076 [FY 2023 total complaints less housing cases] X 6.3% = 67.788). 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 additional Human Relations Officer.

**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 in the fiscal note.

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

RSMo 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.

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

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)** assume that this proposal will have \$0 to unknown negative fiscal impact because the potential increase in civil litigation cases.

**Oversight** notes the AGO 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 Risk and 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 level, 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.

**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 (does not increase costs) to Unknown (does increase costs related to sexual orientation and /or gender identity lawsuits/claims) to GR, Federal, and various Other State Funds in the fiscal note.

Officials from **Concordia R-II School** assume the proposal would add an additional unfunded training and processes to a school system. Each hour of additional professional development (PD) costs, approximately \$1600 per year.

Officials from the **University of Missouri System, Northwest Missouri State University** and **University of Central Missouri** both assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **City of Kansas City** assume this proposal could have a negative fiscal impact on the City of Kansas City, MO, 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 will 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, O’Fallon, and Ulrich** each assume the proposal will have no fiscal impact on their organization.

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 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 Joint Committee on Administrative Rules, 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 Department of Transportation, the Office of Prosecution Services, the Office of Administration (Administrative Hearing Commission and Budget and Planning), 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 for this proposal.

#### 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 2024 (10 Mo.)	FY 2025	FY 2026
<b>GENERAL REVENUE</b>			
<u>Cost - DOLIR (Human Relations Officer(s))</u>			
Salary	(\$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)	(\$29,933) to (\$59,865)
Equipment and Expense	(\$1,600) to (\$6,800)	(\$0)	(\$0)
<u>Total Cost – DOLIR</u>	<u>(\$62,221 ) to</u> <u>(\$128,041)</u>	<u>(\$73,904) to</u> <u>(\$147,807)</u>	<u>(\$75,086) to</u> <u>(\$150,172)</u>
FTE Change – DOLIR (p.3)	1-2 FTE	1-2 FTE	1-2 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 (p. 5)</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT TO GENERAL REVENUE FUND</b>	<b><u>(\$62,221 ) to</u></b> <b><u>(\$128,041)</u></b>	<b><u>(\$73,904) to</u></b> <b><u>(\$147,807)</u></b>	<b><u>(\$75,086) to</u></b> <b><u>(\$150,172)</u></b>
Estimated Net FTE Change to the General Revenue Fund	1- 2 FTE	1-2 FTE	1-2 FTE
<b>OTHER STATE FUNDS</b>			
<u>Cost - Potential increase in payments to Legal Expense Fund for increase in claims (p.5)</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT TO OTHER STATE FUNDS</b>	<b><u>\$0 to</u></b> <b><u>(Unknown)</u></b>	<b><u>\$0 to</u></b> <b><u>(Unknown)</u></b>	<b><u>\$0 to</u></b> <b><u>(Unknown)</u></b>

	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>FEDERAL FUNDS</b>			
<u>Cost</u> - Potential increase in payments to Legal Expense Fund for increase in claims (p.5)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT TO FEDERAL FUNDS</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>
<b>LEGAL EXPENSE FUND (0692)</b>			
<u>Transfer In</u> - from GR, Federal, and Other State Funds (Potential increase in claims) (p.5)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Transfer Out - payment of discrimination claim (p.5)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT TO THE LEGAL EXPENSE FUND</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>COLLEGES AND UNIVERSITIES</b>			
<u>Cost</u> - Colleges and Universities - Potential increase in discrimination claims (p.5)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost</u> - Potential increase in discrimination claims (p.5)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

### FISCAL IMPACT – Small Business

Small businesses will be required to comply with the new and revised sections in employment and public accommodation. If a small business fails to comply, they 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.

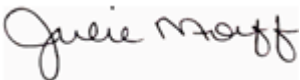
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

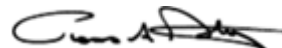
Attorney General's Office  
Department of Commerce and Insurance  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Higher Education and Workforce Development  
Department of Health and Senior Services  
Department of Mental Health  
Department of Natural Resources  
Department of Corrections  
Department of Labor and Industrial Relations  
Department of Revenue  
Department of Public Safety  
    Office of the Director  
    Division of Alcohol and Tobacco Control  
    Capitol Police  
    Fire Safety  
    Missouri Gaming Commission  
    Missouri Highway Patrol  
    State Emergency Management Agency  
    Missouri Veterans Commission  
Department of Social Services  
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  
Missouri Ethics Commission  
Missouri Department of Transportation  
Missouri State Employee's Retirement System  
MoDOT & Patrol Employees' Retirement System  
Missouri Office of Prosecution Services  
Office of Administration  
    Administrative Hearing Commission  
    Budget and Planning  
    Facilities Management, Design and Construction  
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  
City of Urich  
City of O'Fallon  
Concordia R-II School  
Henry County R-1 School  
Northwest Missouri State University  
University of Central Missouri  
University of Missouri System



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