

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5077-02
Bill No.: HB 1541
Subject: Medical Procedures and Personnel; Physicians
Type: Original
Date: February 6, 2012

Bill Summary: Establishes the conscience rights of all individuals who provide health care services to not participate in certain medical services.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
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 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Insurance, Financial Institutions, and Professional Registration, Department of Health and Senior Services, Department of Labor and Industrial Relations, Missouri Department of Transportation, Missouri Consolidated Health Care Plan, Missouri Department of Conservation, Harrison County Health Department, Missouri Southern State University and Missouri State University** assume the proposal will have no fiscal impact on their organization.

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

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

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

Officials from the **Department of Social Services - MO HealthNet Division (MHD)** state the proposed legislation defines conscience as the religious, moral, or ethical principles held by a medical professional or a health care institution. For purposes of sections 191.1150 to 191.1162, a health care institution's conscience shall be determined by reference to its existing or proposed religious, moral, or ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other relevant documents. Section 191.1153 states a medical professional has the right not to participate, and no medical professional shall be required to participate in a medical service that violates his or her conscience. The section further states no medical professional shall be civilly, criminally, or administratively liable for declining to participate in a medical service that violates his or her conscience. In addition, the section says it shall be unlawful for any person, medical professional, health care institution, the state of Missouri, political subdivision, public or private institution, public official, or any board which certifies competency in medical specialties to discriminate against any medical professional in any manner based on his or her declining to participate in a medical service including but not limited to, declining to counsel, advise, pay for, provide, perform, assist, or participate in providing or performing medical services that violates his or her conscience.

ASSUMPTION (continued)

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.

The 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 MO HealthNet.

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

191.1153.3

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

If a state employee refused a board certification demotion, loss of career specialty, reduction of wages or benefits, refusal to award any grant, contract or other program, refusal to provide residency training opportunities, or any other penalty, disciplinary, or retaliatory action, then there is a potential cost to the State Legal Expense Fund.

191.1156.4

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.

191.1159.2

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.

ASSUMPTION (continued)

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

Oversight assumes the potential for civil action to be speculative and absorbable within current funding levels of the General Revenue/State Legal Expense Fund.

Officials from the **Department of Mental Health (DMH)** state this proposal may result in significant direct legal actions and, therefore, fiscally impact the DMH due to its responsibilities to provide and fund medical treatment of patients.

Medical professionals and medical services are defined broadly in this proposal to include many of the activities, funds, and programs for which DMH otherwise provides oversight. Additionally, the religious, moral or ethical principles held by any independent medical professional may vary widely. Health care providers could also raise ethical objections to involuntary treatment, detention, or commitment of persons dangerous by reason of mental illness or substance abuse. Refusing to detain a dangerous person could endanger the public.

The refusal of a medical professional to follow generally accepted medical principles, offer patients a full understanding of legal medical treatments, or to follow departmental requirements for responding to patient needs, could result in substantial legal and fiscal issues. The authority to bring a cause of action against the DMH for imposing standards regarding treatment, responses to emergencies, and otherwise, could increase litigation exponentially. Therefore, the fiscal impact of this proposal is an unknown cost.

Oversight assumes the potential for civil action to be speculative and absorbable within current funding levels of the General Revenue/State Legal Expense Fund.

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

No hospitals responded to **Oversight's** request for a statement of fiscal impact.

No other local public health department responded to **Oversight's** request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

The proposed legislation appears to have no 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

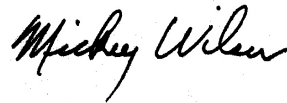
Office of Attorney General
Office of Administration -
 Risk Management, General Services Division
Office of State Courts Administrator
Department of Higher Education
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Health and Senior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

HWC:LR:OD

SOURCES OF INFORMATION (continued)

Office of Prosecution Services
Missouri Southern State University
Missouri State University
Harrison County Health Department

NOT RESPONDING: University of Missouri and Truman State University

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
February 6, 2012