

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0202-01  
Bill No.: HB 573  
Subject: Higher Education; Administrative Law; Federal - State Relations  
Type: Original  
Date: March 4, 2019

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Bill Summary: This proposal creates new provisions relating to rights of accused college students in Title IX proceedings.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(\$93,736)	(\$87,320)	(\$88,190)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$93,736)</b>	<b>(\$87,320)</b>	<b>(\$88,190)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Merchandising Practices Revolving Fund (0631)	\$0 or Could exceed \$250,000	\$0 or Could exceed \$250,000	\$0 or Could exceed \$250,000
College & University Funds	(Could exceed \$1,150,000)	(Could exceed \$1,050,000)	(Could exceed \$1,050,000)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>(Could exceed \$900,000)</b>	<b>(Could exceed \$800,000)</b>	<b>(Could exceed \$800,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	1 FTE	1 FTE	1 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Office of the Attorney General (AGO)** assume this proposal would require one Assistant Attorney General (AAG) II to fulfill the duties related to the data collection in section 173.1925.3. While the \$250,000 fine in section 173.1925.2 would benefit one of the AGO's funds, it could not be relied upon as a consistent method for offsetting the AGO's fiscal impact.

Officials from the **Office of Administration - Administrative Hearing Commission (AHC)** assume this proposal will not significantly alter its caseload. If similar bills pass, resulting in more cases, there will be fiscal impact.

**Oversight** assumes, based on their response, that the AHC will be able to administer this proposal with existing resources; however, should additional bills pass that also increase their responsibilities, the AHC may need additional resources.

Officials from the **Department of Higher Education** and the **Office of the State Courts Administrator** each assume the proposal will have no fiscal impact on their organization.

Officials from the **University of Missouri System** assume this proposal places a significant administrative burden on the University of Missouri and will:

- Require hiring of additional staff on each campus (5 FTE salary & benefits, \$375k)
- Increase the number of cases handled through a hearing, increasing the burden of time spent by all key personnel and hearing panelists, (\$50k)
- Require new and robust training for all investigators, decision makers, hearing panelists, appellate officers, and advisors immediately upon implementation of the bill, (\$50k)
- Incur significant costs associated with the AHC, including the presentation of the cases before the AHC, the expanded discovery mechanics, and general administrative costs with creating an additional layer of oversight, (\$100k)
- Require overhaul of policies and procedures, publications, printed materials, and campus resources (\$50k)

The fiscal impact on the University of Missouri System is expected to be approximately \$625,000.

Officials from the **University of Central Missouri** assume this would require universities to essentially duplicate their internal processes at the state administration hearing commission, an additional staff member would need to be added to the Title IX office, at an estimated cost of \$75,000 annually.

ASSUMPTION (continued)

Officials from **Missouri State University** assume this proposal as an anticipated negative fiscal impact of approximately \$200,000 per year for the university.

**Oversight** only received responses from a few institutions of higher education, but will show a cost to college and university funds that could exceed \$900,000 in administrative costs in the first year as reported by responding institutions (\$625,000 + \$200,000 + \$75,000) with approximately \$800,000 of those costs recurring on annual basis.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other colleges and universities were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to [www.legislativeoversight.mo.gov](http://www.legislativeoversight.mo.gov).

Additionally, Oversight notes section 173.1925.2 states that any institution of higher education that violates a student's due process rights shall be fined \$250,000. Oversight will show a cost to colleges and universities of \$0 (no fine) or could exceed \$250,000. The fine revenue generated from section 173.1925.2 shall be credited to the Merchandising Practices Revolving Fund.

Officials from **State Technical College of Missouri** assume this proposal could have a slight negative fiscal impact on the college. The amount cannot be determined.

Officials from the **Office of the Secretary of State (SOS)** state 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 the 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 the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could require additional resources.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules (JCAR)** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

**Oversight** assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2020	FY 2021	FY 2022
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**GENERAL REVENUE**

Cost - AGO - Assistant Attorney General

Personal Service	(\$50,500)	(\$51,005)	(\$51,515)
Fringe Benefits	(\$27,999)	(\$28,153)	(\$28,309)
Equipment and Expenses	<u>(\$15,237)</u>	<u>(\$8,162)</u>	<u>(\$8,366)</u>
<u>Total Cost - AGO</u>	<u>(\$93,736)</u>	<u>(\$87,320)</u>	<u>(\$88,190)</u>
FTE Change - AGO	1 FTE	1 FTE	1 FTE

**ESTIMATED NET EFFECT ON  
GENERAL REVENUE**

<u><b>(\$93,736)</b></u>	<u><b>(\$87,320)</b></u>	<u><b>(\$88,190)</b></u>
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**Estimated Net FTE Change for  
General Revenue**

1 FTE	1 FTE	1 FTE
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**MERCHANDISING PRACTICES  
REVOLVING FUND**

<u>Revenue - AGO - fine for violation of student due process - §173.1925.2</u>	\$0 or Could exceed <u>\$250,000</u>	\$0 or Could exceed <u>\$250,000</u>	\$0 or Could exceed <u>\$250,000</u>
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**ESTIMATED NET EFFECT ON  
MERCHANDISING PRACTICES  
REVOLVING FUND**

<b>\$0 or Could exceed <u>\$250,000</u></b>	<b>\$0 or Could exceed <u>\$250,000</u></b>	<b>\$0 or Could exceed <u>\$250,000</u></b>
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FISCAL IMPACT - State Government                      FY 2020                      FY 2021                      FY 2022  
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**COLLEGE & UNIVERSITY FUNDS**

<u>Cost</u> - violation of student due process fine - §173.1925.2	\$0 or (Could exceed \$250,000)	\$0 or (Could exceed \$250,000)	\$0 or (Could exceed \$250,000)
<u>Cost</u> - administrative costs and staff	(Could exceed \$900,000)	(Could exceed \$800,000)	(Could exceed \$800,000)
<b>ESTIMATED NET EFFECT ON COLLEGE &amp; UNIVERSITY FUNDS</b>	<b>(Could exceed <u>\$1,150,000</u>)</b>	<b>(Could exceed <u>\$1,050,000</u>)</b>	<b>(Could exceed <u>\$1,050,000</u>)</b>

<u>FISCAL IMPACT - Local Government</u>	FY 2020	FY 2021	FY 2022
	<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

This bill defines "institution of higher education" and provides, students in higher education, due process protections and allows students to request that Federal Title IX procedural hearings be heard before the Administrative Hearing Commission (Section 173.1898 RSMo).

This bill allows students to request a hearing for formal Title IX complaints to the Administrative Hearing Commission. Hearing procedures are set forth in the bill and will follow methods used in Missouri civil cases (Section 173.1900).

This bill allows any students in an institution of higher education past or present that has received a disciplinary action in a Title IX case to appeal to the Administrative Hearing Commission (Section 173.1905). The Administrative Hearing Commission shall compile relevant statistics on  
FISCAL DESCRIPTION (continued)

the cases it hears (Section 173.1907).

This bill provides institutions of higher education guidance for Title IX formal complaints. This guidance includes interim measures that avoid depriving any student of education during investigation and resolution of the formal complaint. Notice of the right to request a hearing before the Administrative Hearing Commission must be provided. This bill sets forth hearing procedures for Title IX formal complaints. To reach a determination of responsibility, the decisionmaker or decisionmakers shall apply the clear and convincing evidence standard (Section 173.1910).

The bill specifies that failure to provide due process for a Title IX proceeding will entitle students to a civil cause of action. It will be considered a breach of contract for the institution of higher education and be considered an illegal act by the Attorney General for purposes of investigation (Section 173.1915).

This bill authorizes the Attorney General to investigate alleged or suspected violations and impose the fine of \$250 thousand dollars for violations of a student's due process. The bill further outlines information that should be collected regarding procedures and policies for formal complaints (Section 173.1925).

The bill defines "exempt record" and "personally identifiable information," and provides that any record related to a Title IX formal complaint or investigation would be considered an exempt record (Section 173.1930). The bill contains an emergency clause.

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

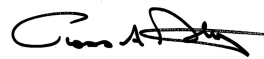
#### SOURCES OF INFORMATION

Office of the Attorney General  
Office of Administration - Administrative Hearing Commission (AHC)  
Department of Higher Education  
Office of the State Courts Administrator  
Joint Committee on Administrative Rules  
Office of the Secretary of State  
University of Missouri System

SOURCES OF INFORMATION (continued)

Missouri State University  
University of Central Missouri  
State Technical College of Missouri

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March 4, 2019



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March 4, 2019