

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0337-01  
Bill No.: HB 208  
Subject: Minorities; Employees - Employers; Labor and Management; Housing  
Type: Original  
Date: May 7, 2019

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Bill Summary: This proposal modifies provisions relating to complaints filed with the Missouri Commission on Human Rights regarding discrimination based upon a person's sexual orientation or gender.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(\$73,934)	(\$79,075)	(\$79,833)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$73,934)</b>	<b>(\$79,075)</b>	<b>(\$79,833)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Legal Expense Fund	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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.  
This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
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>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<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 a similar proposal (HB 350), officials from the **Department of Labor and Industrial Relations (DOLIR)** assumed the following regarding this proposal:

This legislation creates an additional legal standard for what constitutes discrimination. It is assumed that implementation of the lower burden of proof standard set forth in HB 350 (acts "based on" rather than "because of" discriminatory intent) would result in additional Missouri Human Rights Act claims being made against state agencies and that such litigation would have a greater likelihood of resulting in additional judgments or settlements.

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 2020 is estimated at 88.  $(1,391 \text{ [FY 2018 total complaints less housing cases]} \times 6.3\% = 87.633)$ . 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 (1) additional Human Relations Officer I to investigate these cases and provide educational outreach to employers, employees, and the general public. Standard expense and equipment, along with travel costs are included in this estimate.

**Oversight** does not have any information to the contrary in regards to DOLIR's assumptions; therefore, Oversight will reflect DOLIR's costs on the fiscal note.

Officials from the **Office of Administration (OA)** assume this proposed legislation would create additional categories of claims that could potentially be asserted against the state or other entities covered by the Legal Expense Fund. If such claims were successfully pursued, they could result in additional costs to the Legal Expense Fund. However, the amount of the potential costs resulting from this proposal cannot be reasonably estimated as this language creates new legal standards, subject to judicial interpretation, and there is no readily available information that could assist in forming a rational basis for estimating costs. In addition, the number of potential claims, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

ASSUMPTION (continued)

Officials from the **University of Missouri** assume the proposal has no direct fiscal cost, but appears likely to result indirectly in costs for which they do not have a readily available estimate.

**Oversight** does not have any information to the contrary in regards to OA's and the University of Missouri's assumptions; therefore, Oversight will range the fiscal impact from \$0 (does not increase litigation) to an "Unknown" cost to the Legal Expense Fund and Colleges and Universities (increased claims related to sexual orientation and/or gender identity) on the fiscal note.

Officials from the **Office of the State Courts Administrator, Department of Transportation and Missouri Department of Conservation** each assume the proposal will have no fiscal impact on their respective organizations.

**Oversight** notes that the agencies mentioned above have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Officials from the **Office of the Secretary of State (SOS)** assume 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.

Officials from **Boone County** assume the addition of sexual orientation and gender identity could cause an increase to their pooled risk insurance with the potential addition of other public employers to their premiums.

ASSUMPTION (continued)

In response to a similar proposal from 2019 (HB 350), officials from **Kansas City** assumed this proposal could have a negative fiscal impact as it could increase litigation against Kansas City.

Officials from the **Springfield Public Schools** assume there will be an unknown cost as a result of this proposal due to potential litigation. A minimum of \$30,000 is anticipated; however, litigation costs could far exceed \$500,000 if a civil action were filed.

**Oversight** does not have any information to the contrary in regards to the local agencies' listed above assumptions; therefore, Oversight will range the fiscal impact from \$0 (does not increase litigation) to an "Unknown" cost to local political subdivisions (increased litigation related to sexual orientation and/or gender identity) on the fiscal note.

Officials from the **Kirkville R-III Schools** and **State Technical College** each assume the proposal will have no fiscal impact on their respective organizations.

**Oversight** notes that the agencies mentioned above have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

FISCAL IMPACT - State Government	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>GENERAL REVENUE FUND</b>			
Cost - DOLIR			
Personal Services	(\$38,083)	(\$46,157)	(\$46,619)
Fringe Benefits	(\$22,114)	(\$26,676)	(\$26,817)
Expense and Equipment	(\$13,737)	(\$6,242)	(\$6,397)
Total Costs - DOLIR	(\$73,934)	(\$79,075)	(\$79,833)
Net FTE Change - DOLIR	1 FTE	1 FTE	1 FTE
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>(\$73,934)</b>	<b>(\$79,075)</b>	<b>(\$79,833)</b>
Estimated Net FTE Change on the General Revenue Fund	1 FTE	1 FTE	1 FTE

FISCAL IMPACT - State Government (continued)	FY 2020 (10 Mo.)	FY 2021	FY 2022
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**LEGAL EXPENSE FUND**

Cost - OA - potential increase in litigation related to sexual orientation and gender identity	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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<b>ESTIMATED NET EFFECT ON THE LEGAL EXPENSE FUND</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>
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**COLLEGES AND UNIVERSITIES**

Cost - Colleges and Universities - potential increase in litigation related to sexual orientation and gender identity	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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<b>ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>
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FISCAL IMPACT - Local Government	FY 2020 (10 Mo.)	FY 2021	FY 2022
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**LOCAL POLITICAL SUBDIVISIONS**

Cost - potential increase in litigation related to sexual orientation and gender identity	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
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<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>
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FISCAL IMPACT - Small Business

Small businesses will be required to comply with revised sections in employment and public accommodation. 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 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.

This bill changes the laws regarding complaints filed with the Missouri Commission on Human Rights by revising the definition of "discrimination" to include unfair treatment based on sexual orientation or gender identity. It specifies that discrimination includes any unfair treatment based on a person's presumed or assumed characteristics. The bill defines "gender identity" and "sexual orientation."

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

Department of Labor and Industrial Relations  
Office of Administration  
Department of Transportation  
Missouri Department of Conservation  
Office of the State Courts Administrator  
Office of the Secretary of State  
University of Missouri  
State Technical College  
Springfield Public Schools  
Kirksville R-III Schools  
Boone County  
Kansas City



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