

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3768H.01I  
 Bill No.: HB 1684  
 Subject: Hospitals; Department of Health and Senior Services; Nurses; Health Care  
 Professionals; Health Care  
 Type: Original  
 Date: January 7, 2024

Bill Summary: This proposal establishes the "Missouri Hospital Patient Protection Act".

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
General Revenue*	(\$674,100)	(\$1,258,386)	(\$1,282,749)	(Unknown, exceeding \$1,307,615)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$674,100)</b>	<b>(\$1,258,386)</b>	<b>(\$1,282,749)</b>	<b>(Unknown, exceeding \$1,307,615)</b>

\* Oversight assumes the unknown increase in the state share of expenses for 162 hospitals will exceed \$250,000 annually.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Fully Implemented (FY 2028)</b>
Federal*	\$0	\$0	\$0	\$0
<b>Total Estimated Net Effect on All Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Income and expenses (beginning in FY 2027) unknown, but net to \$0

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Fully Implemented (FY 2027)</b>
General Revenue	11 FTE	11 FTE	11 FTE	11 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>11 FTE</b>	<b>11 FTE</b>	<b>11 FTE</b>	<b>11 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>				
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Fully Implemented (FY 2027)</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §§ 197.900, 197.902, 197.904, 197.906, 197.908, 197.910 and 197.912 – Missouri Hospital Patient Protection Act

Officials from the **Department of Health and Senior Services (DHSS), Division of Regulation and Licensure (DRL), Section for Health Standards and Licensure (HSL)** will act on behalf of DHSS for the proposed legislation.

Section 197.904.5(3) requires hospitals submit new staffing plans annually to DHSS.

Section 197.904.9 requires DHSS to promulgate administrative rules for new staffing requirements.

It is assumed it will take a Nurse Manager (annual salary of \$83,699) and a Regulatory Compliance Manager (annual salary of \$95,796) approximately 16 hours per manager to make the required changes to state rules. Based on 2,080 working hours per year, this would require 0.01 FTE per manager to assume these duties (16 hours divided 2,080 hours per year). Personal service costs for the Nurse Manager is \$837 (\$83,699 times 0.01) and for the Regulatory Compliance Manager is \$958 (\$95,796 times 0.01) for a total personal service cost of \$1,795 (\$837 plus \$958). It is assumed that the Department can absorb this portion of the costs of this bill with current resources. However, if the workload significantly increased or other legislation was enacted, additional resources would be requested through the appropriation process.

Section 197.906.2 requires hospitals to submit actual staffing levels as a condition of licensure along with a certification by the chief nursing officer of the health care facility affirming its accuracy.

Section 197.906.4 requires DHSS to conduct periodic audits to ensure implementation of the hospital's staffing plan and ensure the accuracy of the staffing plan. There are 162 hospitals in Missouri. It is assumed audits of each hospital will be conducted on a four-year rotation, requiring 40 audits annually.

Section 197.910.5 requires DHSS to receive and investigate complaints against a hospital. DHSS receives and closes approximately thirty-five percent (or 350 complaints) of all current complaints received regarding staffing issues under current requirements. It is assumed the same number of complaints will be received under the proposed legislation. It is further anticipated that half of the 350 complaints received (175) will require additional investigation which would require additional resources and follow-up.

Section 197.910.11 states a form specified by DHSS to be posted in an appropriate location in each hospital unit, clinical unit, or patient care area.

Section 197.910.12 requires DHSS to establish a toll-free telephone hotline to report violations. DHSS has an existing hotline to report hospital violations.

Section 197.912 allows DHSS to impose civil penalties for violations and requires posting on the department's website the names of hospitals against which civil penalties have been imposed. There are 162 hospitals in Missouri. It is assumed five hospitals (three percent of the 162 hospitals) will be imposed a civil monetary penalty (CMP) for the maximum of \$25,000. This will create a total increase to General Revenue of \$125,000 each year (5 hospitals \* \$25,000 per CMP). Additionally in the proposed legislation under § 197.912, DHSS may impose civil penalties against an individual who is employed by a health care facility with penalty up to \$20,000 for each violation. However, it is assumed there will be no civil penalties imposed against an individual who is employed by a hospital. The legislation does not mention that DHSS can request the help of the Attorney General's Office (AGO) so the cost of bring an action to recover the civil penalties would be borne by DHSS.

It is assumed HSL will require the following additional positions to meet the requirements of the proposed legislation to start on **January 1, 2025**.

Eight (8) Registered Nurses (salary \$75,000) will be needed to conduct audits and investigate complaints. These staff are assumed to be telecommuters and are expected to travel extensively; it is assumed that the travel cost will be \$10,238 annually for each of the investigative staff.

One (1) Public Health Program Associate (salary \$43,783) will be needed to receive and review staffing plans from each hospital to ensure they meet specified requirements, form development, and website updates.

One (1.00 FTE) Legal Counsel (annual salary \$82,999) for promulgating rules and the cost of bringing action to recover civil penalties.

One (1.00 FTE) Senior Accounts Assistant (annual salary of \$51,064) to process the additional invoices, receipts, and expense reports that result from the additional staff and civil penalties.

**Oversight** does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the DHSS. In addition, DHSS costs will be extrapolated out to FY 2028, the year in which the Department of Social Services states increased costs for the provisions of this proposal will begin to be reported in hospital cost reports.

Officials from the **Department of Social Services (DSS)** state additional cost would begin to be reflected in either the 2024 or 2025 hospital cost reports. MO HealthNet would use 2024 cost reports to establish reimbursement for SFY 2027 and 2025 cost reports to establish reimbursement for SFY 2028. Therefore, there would not be a fiscal impact to the MO HealthNet Division in SFY's 2024 through 2026, but starting in SFY 2027, MHD estimates there could be additional costs associated with this proposal. The additional costs would be unknown at this time.

**Oversight** does not have any information to the contrary. Oversight notes 13 CSR 70-15 (C) provides that hospital base year cost reports are the “audited Medicaid cost report from the third prior calendar year”, which will be 2024 hospital cost reports. Therefore, Oversight will reflect an Unknown cost increase to the General Revenue fund for DSS beginning in FY2028. It is assumed the increase in the state share of expenses for 162 hospitals will exceed \$250,000 annually. In addition, Unknown costs and a corresponding increase in revenues for Federal Funds will be shown. The net impact to Federal Funds will be \$0.

Officials from the **Department of Public Safety (DPS), Missouri Veterans Commission (MVC)** state they are not licensed under Chapter 197. Therefore DPS, MVC assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

Officials from the **Department of Commerce and Insurance, the Department of Mental Health, the Department of Labor and Industrial Relations and the Office of the State Courts Administrator** 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.

#### 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)** notes 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 within 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** only reflects the responses received from state agencies and political subdivisions; hospitals were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the MOLIS database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (6 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)

<b>GENERAL REVENUE FUND</b>				
<u>Income – DHSS (§197.912) – Penalties p. 4</u>	\$62,500	\$125,000	\$125,000	\$125,000
<u>Costs – DHSS (§§197.900 - 197.912) p. 3-4</u>				
Personal service	(\$388,923)	(\$793,403)	(\$809,271)	(\$825,456)
Fringe benefits	(\$233,351)	(\$472,732)	(\$478,882)	(\$485,172)
Equipment and expense	(\$114,326)	(\$117,251)	(\$119,596)	(\$121,987)
<u>Total Costs - DHSS</u>	<u>(\$736,600)</u>	<u>(\$1,383,386)</u>	<u>(\$1,407,749)</u>	<u>(\$1,432,615)</u>
FTE Change – DHSS	11 FTE	11 FTE	11 FTE	11 FTE
<u>Costs - DSS</u>				
Increase in state share of hospital costs (§§197.900 - 197.912) p. 4-5	\$0	\$0	\$0	(Unknown)
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(\$674,100)</u></b>	<b><u>(\$1,258,386)</u></b>	<b><u>(\$1,282,749)</u></b>	<b><u>(Unknown, exceeding \$1,307,615)</u></b>
Estimated Net FTE Change on the General Revenue Fund	11 FTE	11 FTE	11 FTE	11 FTE
<u>FISCAL IMPACT – State Government</u>	FY 2025 (6 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
<b>FEDERAL FUNDS</b>				
<u>Income – DSS (§§197.900 - 197.912) – Increase in program reimbursements p. 4-5</u>	\$0	\$0	\$0	Unknown
<u>Costs – DSS (§§197.900 - 197.912) – Increase in program expenditures p. 4-5</u>	\$0	\$0	\$0	(Unknown)
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Certain small health care businesses could be impacted by this proposal.

FISCAL DESCRIPTION

This bill establishes the "Missouri Hospital Patient Protection Act".

The bill requires all hospitals licensed under Chapter 197, RSMo, to create and implement a staffing plan for each hospital unit, clinical unit, and patient care area. The plan must be in writing and provide that at all times, during all shifts, there be minimum staffing levels as specified in the bill. The hospital shall specify the system used to document actual staffing per shift. The hospital shall evaluate annually its staffing plan, update its staffing plan as necessary, and submit to the Department of Health and Senior Services its updated plan.

Each hospital shall make available their staffing plan and any related documentation to the Department, direct care registered nurses and their collective bargaining representatives, and the public. Each hospital shall maintain records of their actual staffing levels for no less than three years.

Each patient shall be assigned to a direct care registered nurse responsible to provide assessment, planning, supervision, implementation, and evaluation of care services for the patient. A hospital shall not assign a direct care registered nurse to a hospital unit, clinical unit, or patient care area unless the nurse has demonstrated current competence in providing care in such unit or area and received relevant orientation.

Other personnel may perform patient care tasks based on their training and demonstrated skills, but shall not perform or assist in direct care registered nurse functions.

Staffing and care provisions established pursuant to this bill shall not apply when the Governor has declared a state of emergency and a hospital is required to provide an exceptional level of emergency or other medical services.

The Department shall conduct periodic audits to ensure implementation of the staffing plan and establish a toll-free phone line to provide information about these requirements and accept

reports of violations. No person whether an employee, patient, or otherwise, who is acting in good faith shall be retaliated against in any way.

A nurse has a duty and a right to act based upon their professional judgment and provide care in the exclusive interests of the patient and to act as the patient's advocate. A hospital shall not discharge, retaliate against, or otherwise take adverse action against a nurse for taking such action.

Each hospital shall post in an appropriate location in each hospital unit, clinical unit, or patient care area a conspicuous notice in a form specified by the Department explaining the rights of nurses, patients, and other individuals, include a statement that such persons may file a complaint against the hospital with the Department, and provide instructions for filing a complaint.

In addition to other penalties pursuant to law, the Department may impose a civil penalty of up to \$25,000 for each violation against a hospital that violates the provisions of this bill, and may impose a civil penalty of at least \$25,000 if the Department determines the hospital has a pattern of such violation. The Department shall post on its website any facility that have been penalized for violating these provisions.

The provisions of this bill shall not be construed to authorize conduct that is prohibited under the National Labor Relations Act or the Federal Labor Relations Act of 1978. (§§197.900 - 197.912)

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



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SOURCES OF INFORMATION

Department of Commerce and Insurance

Department of Health and Senior Services

Department of Mental Health

Department of Labor and Industrial Relations

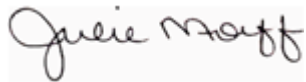
Department of Public Safety - Missouri Veterans Commission

Department of Social Services

Office of the Secretary of State

Joint Committee on Administrative Rules

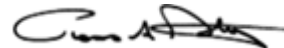
Office of the State Courts Administrator



Julie Morff

Director

January 7, 2024



Ross Strobe

Assistant Director

January 7, 2024