

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3921H.011
 Bill No.: HB 2309
 Subject: Civil Rights; Administrative Rules
 Type: Original
 Date: January 16, 2024

Bill Summary: This proposal establishes the Defining SEX Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund*	\$0 or (\$68,746)	\$0 or (\$82,744)	\$0 or (\$84,098)
Total Estimated Net Effect on General Revenue	\$0 or (\$68,746)	\$0 or (\$82,744)	\$0 or (\$84,098)

*Oversight notes range in costs due to the potential increase in workload for DOLIR one additional FTE (Human Resource Office at \$47,850 annually).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Federal Funds – DMH	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes potential loss of funds for DMH due to potential violation of TJC & CMS rules could exceed the \$250,000 threshold.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue Fund	0 or 1 FTE	0 or 1 FTE	0 or 1 FTE
Total Estimated Net Effect on FTE	0 or 1 FTE	0 or 1 FTE	0 or 1 FTE

- 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.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health (DMH)** note:

The proposed legislation establishes the “Defining Sex Act” in section 213.014. It further defines terms relating to gender and gender identity. It states that individuals born with a medically verifiable diagnosis of a disorder or difference in sex development shall enjoy the relevant legal protections and accommodations afforded under the federal Americans with Disabilities Act.

The Department of Mental Health (DMH) inpatient facilities are accredited by The Joint Commission (TJC) and Center for Medicare/Medicaid Services (CMS). TJC and CMS set several standards that facilities are required to meet for accreditation. Loss of accreditation by our facilities may result in the loss of federal funding, approximately \$0 - \$155,077,370.

DMH additionally offers training for various clinical disciplines. Loss of training sites would lead to further shortages in clinical disciplines, and it may cause a safety issue to individuals in DMH care if at the last minute there are providers the DMH can no longer contract with. This may cause an unknown GR impact to the department.

Total anticipated impact to DMH for GR - FY25 Unknown, FY26 Unknown and FY27 Unknown. Federal - FY25 the anticipated fiscal impact is \$0 – (\$155,077,370), for FY26; \$0 – (\$155,077,370), and FY27 is \$0 – (\$155,077,370).

Oversight will note the potential loss for DMH will be directly associated with Federal Funding, therefore, for purpose of this fiscal note, Oversight will not reflect any general revenue losses due to this proposal.

Oversight notes the officials from the DMH assume the proposal will have a direct fiscal impact due to the non-compliance in applicable standards set by The Joint Commission and Center for Medicare/Medicaid Services (CMS). Oversight does not have any information to the contrary. Therefore, Oversight will reflect a DMH potential negative estimated impact ranging from \$0 (DMH will not experience loss of its federal funding) to negative Unknown (DMH will realize loss of its federal funding) to the federal funds in the fiscal note.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** note:

Discrimination on the basis of sex is the most common form of complaint fielded by the MCHR. In FY '22, 771 out of 1,192 complaints received by the MCHR were on the basis of sex. The additional definitions established in Section 213.014 of the bill would need to be taken into account for all sex discrimination complaints. The additional analysis would be spread among all

human rights officers and the additional time per case spent on analyzing sex discrimination cases requires the addition of 1 human rights officer.

Currently, complaints on the basis of sex are received which are determined to be alleged discrimination on the basis of gender identity. These cases are referred to the U.S. Equal Employment Opportunity Commission. The definition of sex provided in this bill is narrower than that provided by Title VII, which includes sexual orientation, gender identity, and pregnancy. This could potentially cause fewer overall cases to be filed with the Commission, though all cases which are received would still need to be analyzed with the new definitions put in place by this bill.

Oversight notes officials from the DOLIR assume the proposal will have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will range the impact from the \$0 (the proposal will not increase the MCHR workload) to the DOLIR's 1 FTE Human Resource Officer at \$47,850 annually effective FY 2025.

Officials from the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Corrections**, the **Department of Social Services**, the **Office of Administration** each assume the proposal will have no 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 above respective agencies.

Officials from the **University of Central Missouri** note:

This proposal would have an indeterminate fiscal impact. The law may deter students from attending a Missouri institution, affecting enrollment numbers. Additionally, Faculty and Staff may choose to no longer work in the state due to the law that may result in expenses to fill those positions. It is difficult to estimate what either cost may be to the institution.

Oversight assumes the impact as presented by the University of Central Missouri would be an indirect impact. Therefore, Oversight will not show a fiscal impact to the University of Central Missouri.

Officials from the **Northwest Missouri State University** 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 for Northwest Missouri State University.

Officials from the **City of Kansas City** 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 for the City of Kansas City.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE FUND			
<u>Cost – DOLIR Section 213.014 - Defining Sex Act reviews by HRO</u>	\$0 or	\$0 or	\$0 or
Personnel Service	(\$39,875)	(\$48,807)	(\$49,783)
Fringe Benefits	(\$27,971)	(\$33,937)	(\$34,315)
Expense & Equipment	(\$900)	\$0	\$0
<u>Total Costs – DOLIR 1 FTE</u>	<u>(\$68,746)</u>	<u>(\$82,744)</u>	<u>(\$84,098)</u>
FTE Change	1 - FTE	1 - FTE	1 - FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	\$0 or <u>(\$68,746)</u>	\$0 or <u>(\$82,744)</u>	\$0 or <u>(\$84,098)</u>
Estimated Net FTE Change on General Revenue	0 to 1 FTE	0 to 1 FTE	0 to 1 FTE
FEDERAL FUNDS			
<u>Costs – DMH - Section 213.014 potential loss of federal funding due to violation(s) of TJC and CMS rules</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<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

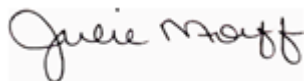
This bill establishes the "Defining SEX Act", and provides statutory definitions of the terms "boy", "father", "female", "girl", "male", "man", "mother", "sex", and "woman".

This bill also specifies that "gender", when used alone and to refer to males, females, or the natural differences between the two, shall be considered asynonym for "sex", and shall not be considered a synonym or shorthand expression for "gender identity", "experienced gender", "gender expression", or "gender role". "Gender identity", if the term is used in state law, administrative rules, or guidelines, shall not be considered asynonym or substitute for "sex" or "gender".

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
Department of Mental Health
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Corrections
Department of Social Services
Office of Administration
Northwest Missouri State University
University of Central Missouri
City of Kansas City



Julie Morff
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January 16, 2024



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January 16, 2024