



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE FORM

BILL NUMBER: HB 2865		DATE: 4/1/2026	
COMMITTEE: Judiciary			
TESTIFYING: <input checked="" type="checkbox"/> IN SUPPORT OF <input type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
WITNESS NAME			
REGISTERED LOBBYIST:			
WITNESS NAME: ANDY BRISCOE		PHONE NUMBER:	
REPRESENTING: THE MISSOURI BAR		TITLE:	
ADDRESS: 326 MONROE STREET			
CITY: JEFFERSON CITY		STATE: MO	ZIP: 65102
EMAIL:	ATTENDANCE:	SUBMIT DATE: 4/1/2026 12:00 AM	
THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.			



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE FORM

BILL NUMBER: HB 2865		DATE: 4/1/2026	
COMMITTEE: Judiciary			
TESTIFYING: <input checked="" type="checkbox"/> IN SUPPORT OF <input type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
WITNESS NAME			
INDIVIDUAL:			
WITNESS NAME: DAVID BARRETT		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE:		SUBMIT DATE: 4/1/2026 12:00 AM
THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.			



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE FORM

BILL NUMBER: HB 2865		DATE: 4/1/2026
COMMITTEE: Judiciary		
TESTIFYING: <input checked="" type="checkbox"/> IN SUPPORT OF <input type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES		
WITNESS NAME		
REGISTERED LOBBYIST:		
WITNESS NAME: WARD COOK		PHONE NUMBER: 816-210-3276
REPRESENTING: THE MISSOURI BAR		TITLE:
ADDRESS:		
CITY: JEFFERSON CITY		STATE: MO
		ZIP:
EMAIL:	ATTENDANCE:	SUBMIT DATE: 4/1/2026 12:00 AM
THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.		



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE FORM

BILL NUMBER: HB 2865		DATE: 4/1/2026	
COMMITTEE: Judiciary			
TESTIFYING: <input type="checkbox"/> IN SUPPORT OF <input checked="" type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
WITNESS NAME			
INDIVIDUAL:			
WITNESS NAME: SARAH BERRY		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE: Written	SUBMIT DATE: 4/1/2026 7:58 AM	

THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.

HB 2865 removes statutory limitations on attorney fee awards in civil actions and administrative proceedings involving the state, fundamentally altering the balance established under Missouri’s statutory framework governing fee recovery against governmental entities.

Missouri’s existing structure—modeled in part on Equal Access to Justice principles—was designed to create measured, predictable, and equitable fee recovery where individuals prevail against the state, while maintaining defined statutory limits to prevent arbitrary or excessive financial exposure. HB 2865 disrupts that balance by eliminating the cap on attorney fees without establishing a corresponding limiting principle.

This approach departs from established federal analogs, including the Equal Access to Justice Act (28 U.S.C. § 2412), which permits fee recovery against the government but retains statutory constraints and structured standards to ensure consistency, predictability, and proportionality. The removal of comparable guardrails at the state level creates an open-ended liability framework untethered from established limiting principles.

This raises significant due process concerns, as the absence of defined statutory boundaries introduces unpredictability into litigation involving the state. Without clear limits, fee awards become dependent on post hoc determinations of “reasonableness,” exposing the state—and by extension, the public—to indeterminate liability without advance notice of the potential scope.

The bill further implicates constitutional guarantees of access to the courts (Mo. Const. Art. I, §14) by altering the litigation framework in a way that may distort incentives on both sides.

While fee-shifting statutes are intended to enable access, uncapped and undefined recovery structures risk creating asymmetrical pressure, encouraging litigation strategies driven by fee maximization rather than resolution on the merits.

HB 2865 also raises equal protection concerns (Mo. Const. Art. I, §2) by selectively applying this expanded exposure to the state while excluding political subdivisions. This creates unequal treatment among governmental defendants and litigants based solely on classification, without a clearly articulated justification tied to the nature of the claims.

Additionally, the absence of a statutory ceiling or formula introduces improper delegation concerns, as the legislature effectively transfers its role in defining limits on public financial liability to the judiciary

without sufficient standards to guide uniform application. This risks inconsistent outcomes across courts and undermines predictability in the law.

The projected fiscal impact—potentially exceeding significant thresholds annually—further confirms that this is not a technical adjustment, but a structural shift in how litigation against the state is funded and resolved.

Bottom line:

HB 2865 dismantles the existing statutory balance governing fee recovery against the state by removing defined limits without establishing clear standards, creating an open-ended liability structure inconsistent with established legal frameworks.

The General Assembly is hereby placed on notice that enactment of this provision may give rise to constitutional challenges, including but not limited to violations of due process, equal protection, access to the courts under Article I, Section 14, and improper delegation of legislative authority.