

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1469H.02C
 Bill No.: HCS for HB 922
 Subject: Civil Procedure; Courts; Contracts and Contractors
 Type: Original
 Date: February 26, 2021

Bill Summary: This proposal modifies the statute of limitations for personal injury claims from five years to two years.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue (appropriation reduction to LEF for cost avoidance)	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Total Estimated Net Effect on General Revenue	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Other State Funds	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Legal Expense Fund*	\$0	\$0	\$0
Tort Victims' Compensation Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

Numbers within parentheses: () indicate costs or losses.

The potential fiscal impact above represents the potential reduction in exposure to liability claims. Oversight assumes the cost avoidance could possibly reach \$250,000 in a given year.

*Indicates numbers that net to zero.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

- 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 2022	FY 2023	FY 2024
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

In response to similar legislation from this year, SB 3, officials from the **Office of Administration** stated §516.140(1) changes the statute of limitation for personal injury claims from five years to two years. This provision has the potential to avoid costs to the state Legal Expense Fund (LEF) for actions alleging negligence against a state employee, due to the limiting time period for bringing such cause of action. However, the amount of such cost savings is unknown as the number of potential claims that may be asserted against the state, 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.

The state self-assumes its own liability under the state LEF, Section 105.711, RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

Officials from the **Department of Commerce and Insurance** 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.

In response to a previous version, officials from the **Attorney General's Office (AGO)** assumed 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 these agencies.

Oversight notes information from www.alllaw.com lists the Statute of Limitations on Personal Injury Lawsuits by State. That information is as follows:

<u>STATUTE OF LIMITATIONS ON PERSONAL INJURY LAWSUITS BY STATE</u>					
<u>1 year</u>	<u>2 year</u>	<u>3 year</u>	<u>4 year</u>	<u>5 year</u>	<u>6 year</u>
Kentucky	Alabama	Arkansas	Florida	Missouri	Maine
Louisiana	Alaska	DC	Nebraska		North Dakota
Tennessee	Arizona	Maryland	Utah		
	California	Massachusetts	Wyoming		
	Colorado*	Michigan			
	Connecticut	Mississippi			
	Delaware	Montana			
	Georgia	New Hampshire			
	Hawaii	New Mexico			
	Idaho	New York			
	Illinois	North Carolina			
	Indiana	Rhode Island			
	Iowa	South Carolina			
	Kansas	South Dakota			
	Minnesota	Vermont			
	Nevada	Washington			
	New Jersey	Wisconsin			
	Ohio				
	Oklahoma				
	Oregon				
	Pennsylvania				
	Texas				
	Virginia				
	West Virginia				
Source: www.alllaw.com					
*Colorado is 3 years for car accidents					

The **Department of Labor and Industrial Relations**' website says "The Tort Victims' Compensation Fund exists to help compensate those who have been injured due to the negligence or recklessness of another (such as in a motor vehicle collision or a hunting accident), and who have been unable to obtain full compensation because the party at fault (the tortfeasor) had no insurance, or inadequate insurance, or has filed for bankruptcy, or for other reasons specified by the law."

Tort Victims Compensation Fund (TVCF) - \$0 to (unknown)

Oversight notes that under §537.675.3, 50% of the punitive damage state judgments, after deducting attorney's fees and expenses, shall go into the Tort Victims' Compensation Fund (0622). Because this proposal tends to reduce punitive damages awards by reducing the time frame to file suit, Oversight assumes a negative direct fiscal impact to the Tort Victims Compensation Fund.

Information provided by the Attorney General shows that between July, 2014, and December, 2019, the Tort Victims Compensation Fund received \$20,043,083. During that period, average annual payments into the Tort Victims Compensation Fund (TVCF) were \$3,644,197.

Oversight does not know how many cases affected by this proposal would not be brought because of the change in the statute of limitations.

The AGO does not track the types of claims paying into the TVCF, so this number is likely an overestimate, as it includes claims not affected by this proposal. Because **Oversight** was unable to get more specific information about the number of claims filed between two and five years after the claim arose, Oversight will show a \$0 to (unknown) to the TVCF.

Legal Expense Fund (LEF) - \$0 to unknown

“The State Legal Expense Fund (LEF) is used for payments in resolution of judgments or claims for damages from injured parties arising out of the actions of state employees, agencies, contracted physicians, and the condition of state property.” *Audit Report No. 2017-098*

Officials from the Office of Administration did not respond to **Oversight's** request for fiscal impact for this proposal. However, information from the Office of Administration (OARM) from SB 633 from 2020 shows that the LEF spent \$14,900,000 on personal injury and wrongful death claims in FY 2015-2018. The annual average of those claims is \$3,725,000.

According to information from OARM, 20% of the LEF's funds comes from other state funds, implying \$0 up to \$3,725,000 annually reduced LEF expenditures, with \$2,980,000 through General Revenue appropriations, and \$745,000 from other funds.

Oversight notes that these numbers are likely an overestimate, as it includes claims that could be brought within two years. Because **Oversight** was unable to get more specific information about the number of claims filed between two and five years after the claim arose, Oversight will show a \$0 to unknown net direct fiscal impact.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LEGAL EXPENSE FUND (0692)			
<u>Cost Avoidance</u> – potential reduction on payouts of injury damages from LEF	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Transfer In</u> – Reduction in appropriation from GR	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Transfer In</u> – Reduction in transfers from other state funds	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TORT VICTIMS COMPENSATION FUND			
<u>Loss</u> – Various State Agencies - potential reduction from payouts of punitive damages to TVCF	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON TORT VICTIMS’ COMPENSATION FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost Savings – Potential reduction in injury damages paid</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

FISCAL IMPACT – Small Business

Small businesses could be either positively (defendant) or negatively (plaintiff) as a result of this proposal.

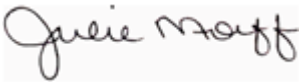
FISCAL DESCRIPTION

Currently, actions for personal injury must be brought within five years from the date the injury occurred. This bill reduces the time frame to two years from when the injury occurred.

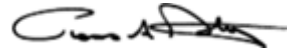
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Commerce and Insurance
Office of the State Courts Administrator
Office of Administration



Julie Morff
Director
February 26, 2021



Ross Strobe
Assistant Director
February 26, 2021