

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4259H.01I
Bill No.: HB 1854
Subject: Abortion; Health Care; Taxation and Revenue - General; Medicaid/MO HealthNet
Type: Original
Date: January 11, 2022

Bill Summary: This proposal modifies provisions relating to health care.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 2023	FY 2024	FY 2025
Federal*	\$0 to (\$166,000,000)	\$0 to (\$166,000,000)	\$0 to (\$166,000,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (\$166,000,000)	\$0 to (\$166,000,000)	\$0 to (\$166,000,000)

* The range reflects a potential loss of funding due to potential federal sanctions against the Title XIX federal claim.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 2023	FY 2024	FY 2025
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§188.202; 188.207; 208.152; 208.153 and 208.164 – Prohibits public funds to any abortion facility, or to any affiliate or associate

Officials from the **Department of Social Services**, state proposed §§188.202, 188.207, 208.152.1(6) and (12), 208.153.1, and 208.164.10 could result in federal sanctions in that these amendments prohibit abortion providers and their affiliates from providing healthcare assistance to MO HealthNet participants. Section 1902(a)(23)(A) of the Social Security Act requires a state Medicaid agency to allow Medicaid participants to obtain medical assistance from any institution, agency, community pharmacy or person qualified to perform such assistance who undertakes to perform such assistance (“freedom of choice of provider” provision). This requirement is further set forth in Missouri’s State Medicaid Plan, as required by federal law. Excluding a group of providers could subject the Department of Social Services to federal sanctions.

However, the Department is not certain how CMS would respond to the language. Therefore, the cost is presented as a range, from \$0 to approximately 2% (\$166 million) of the total Title XIX federal claim for the last four quarters.

Oversight does not have any information contrary to that provided by DSS. Therefore, Oversight will reflect DSS’s impact of “\$0 to (\$166,000,000)” for fiscal note purposes, dependent upon action (if any) taken by the CMS.

Responses regarding the proposed legislation as a whole

Officials from the **Office of Attorney General (AGO)** assume any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from the **Office of Administration - Budget & Planning (B&P)** state this bill has no direct impact on B&P or on general and total state revenues. The B&P states it will not impact the calculation pursuant to Article X, Section 18(e).

Officials from the **Department of Commerce and Insurance**, the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **Office of the State Public**

Defender, the **Newton County Health Department** and the **St. Louis County Health Department** 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.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other local public health agencies, nursing homes, ambulance districts and hospitals were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in Oversight's database is available upon request.

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** notes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize 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 their office can sustain with their core budget. Therefore, they reserve 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.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
FEDERAL FUNDS			
<u>Losses – DSS/MHD (§§188.202; 188.207; 208.152; 208.153 and 208.164) Potential loss of federal portion of the pharmacy appropriation.</u>	<u>(\$0 to \$166,000,000)</u>	<u>(\$0 to \$166,000,000)</u>	<u>(\$0 to \$166,000,000)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$0 to \$166,000,000)</u>	<u>(\$0 to \$166,000,000)</u>	<u>(\$0 to \$166,000,000)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
	<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 provides no federal act, law, executive order, administrative order, rule, or regulation may infringe on the right of state citizens to restrict public funds, facilities, and employees from:

- 1) Being used to perform, induce, or assist in abortions;
- 2) Encouraging childbirth over abortions in the use of public funds, facilities, and employees;
- 3) Defending the religious beliefs and moral convictions of those who do not wish to be forced to participate directly or indirectly in abortions;
- 4) Preventing the state, its political subdivisions, and public officials from being coerced or compelled by the federal government from administering or enforcing a federal regulatory program that funds abortions (§188.202).

It shall be unlawful for public funds to be expended to any abortion facility and any affiliate or associate of such facility (§§188.207; 208.152; 208.164 and 208.659).

If a taxpayer takes action to enforce the above provisions of the bill, a court may order injunctive or other equitable relief, recovery of damages or other legal remedies, or both, as well as payment of reasonable attorney's fees, costs, and expenses of the taxpayer (§188.202).

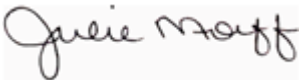
Currently, any person entitled to MO HealthNet benefits is able to obtain benefits from any provider of services with which an agreement is in effect and which undertakes to provide the services, as authorized by the MO HealthNet Division, the bill repeals this option (§208.153).

This bill mandates that the Department of Health and Senior Services suspend, revoke, cancel, or refuse to enter into any contract or provider agreement when it is determined that a provider is not qualified to perform under the contract as required. The bill provides such conditions for determining that a provider is not qualified to perform the service or services required, including the conviction of crimes related to fraud and patient care, patterns of discrimination, and that the provider is an abortion facility (§208.164).

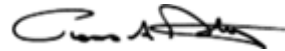
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Commerce and Insurance
Department of Health and Senior Services
Department of Mental Health
Department of Social Services
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Office of Administration - Budget and Planning
Office of the Secretary of State
Office of the State Courts Administrator
Office of the State Public Defender
Newton County Health Department
St. Louis County Health Department



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January 11, 2022



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January 11, 2022