

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5676-01  
Bill No.: HB 1717  
Subject: Attorney General, State; Domestic Relations; Employees - Employers; Health Care  
Type: Original  
Date: March 19, 2014

Bill Summary: This proposal would create a right to unpaid leave for employees that are affected by domestic violence.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Other State	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 12 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Other Federal *	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Net of additional costs and offsetting revenues.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator** assume this proposal would create a permissive leave category and they have no way of knowing how many employees would be taking the leave. Although there should be no cost, it is possible production could go down. If there is any significant increase in workload, it would be reflected in future budget requests.

Officials from the **Office of the Governor** assume there would be no added cost to their organization if this proposal is implemented.

Officials from the **Office of Attorney General** assume that costs could be absorbed. However, if there is a significant increase in investigations they may seek an additional appropriation.

Officials from the **Office of Administration - Division of Budget and Planning** deferred to the Office of Administration for an estimate of the fiscal impact of this proposal.

Officials from the **Office of Administration - Division of Personnel (OA)** assume this proposal would have some impact on the Personnel Advisory Board and the Division of Personnel. OA officials stated that administration of the proposed legislation would be complex and the amount of leave and duration of leave connects to those benefits currently available under the federal Family and Medical Leave Act (FMLA). Determinations would have to be made whether the employer counts time for a qualifying FMLA condition under FMLA or a Domestic Violence Leave. It appears that in some cases, the leave under this proposal would be limited by an employee's use of FMLA for other purposes. However, it does not appear that use of the proposed leave for circumstances not covered by the FMLA would count against the employee's FMLA entitlement. Rules would need to be updated to incorporate this new form of leave. OA would have to ensure agencies were made aware of this legislation, as well as inform them of the requirement to post this information in locations where employees have access to it.

Additionally, new programming and leave tracking procedures would need to be adopted and implemented in order to track this form of leave.

ASSUMPTION (continued)

The proposal would enable an employee who is the victim, or family or household member of a victim of domestic violence to retain their health benefits when they are not being paid, which would result in costs to the employer. There would also be a loss of manpower for that time when the employee is allowed to be off work. Depending on the work involved and the employee's job duties, state agencies may need to assess the situation immediately and develop contingency plans to cover work load as necessary. This may require hiring temporary employees or requiring co-workers to work overtime to cover the work. These costs would vary so it is unknown what the fiscal impact would be on the employer.

It is impossible at this point in time to estimate the cost of any necessary programming changes to the SAM II system, or to estimate the recurring costs for the necessary administrative and record keeping work by affected state agencies. OA is unable to estimate the frequency or duration of leave that could be requested under this proposal. OA would have to defer to the other state agencies for estimates of overtime costs related to the proposed legislation.

Officials from the **City of Kansas City** assumed there would likely be a cost to the City from similar language in SB 712 LR 4758-01 for a couple of reasons. First, this proposal would provide up to twelve weeks of leave to an employee who is a victim of domestic violence for reasons related to domestic violence. The proposal also provides that the proposed leave would not supercede or limit the benefits available under other laws, which would include the federal Family and Medical Leave Act. Therefore, an individual with a serious health condition because of or in addition to being a victim of domestic violence, could feasibly be allowed to take up to 24 weeks, or nearly six months off every year.

Additionally, the proposal would provide a duty to the employer to provide a reasonable accommodation to such employee. Reasonable accommodations often come at a cost to an employer, particularly when the accommodation sought is a piece of equipment, or possibly added security.

Finally, there is a provision for actual damages, in addition to reasonable attorney's fees, so there is the threat of litigation related to leave and accommodations for victims of domestic violence, and the potential for damages. However, because the City has absolutely no idea how many of its employees are victims of domestic violence, it cannot predict or estimate the fiscal impact of this bill with any specificity or reasonable certainty.

ASSUMPTION (continued)

Officials from **Cole County** assume this proposal has the potential to create a negative fiscal impact in the form of loss of productivity and expenses associated with premise modification or security services.

Officials from the **City of Columbia** assume this proposal would create an unfunded mandate, and would create administration responsibilities which can not be estimated. The cost of employee-only health insurance is \$200 for two weeks. City officials assume the impact would not be significant.

Officials from the **Fulton School District** assume this proposal would have an unknown fiscal impact on their organization.

Officials from the **Francis Howell School District** assume the cost would be \$100 per day for a substitute teacher, but stated they could not estimate the number of days would be used in a year.

Officials from the **Department of Revenue**, the **Department of Conservation**, the **Department of Transportation**, **Linn State Technical College**, **Missouri Southern State University**, **Missouri State University**, **Northwest Missouri State University**, the **University of Central Missouri**, the **University of Missouri**, **St. Louis County**, the **Special School District of St. Louis County**, and the **St. Louis County Board of Election Commission** each assume there would be no fiscal impact to their respective organizations from this proposal.

Officials from the **Office of Administration - Division of Information Technology Services** assumed similar language in SB 712 LR 4758-01 would have no fiscal impact on their organization.

ASSUMPTION (continued)

In response to similar provisions in SB 367 LR 1717-01 (2013) officials from the **Office of the Secretary of State (SOS)** stated 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 \$2,500. 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 with 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** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Not responding

Officials from the following counties: Andrew, Audrain, Barry, Bates, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cooper, DeKalb, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, St. Charles, St. Francois, Taney, Warren, Wayne and Worth did not respond to our request for information.

Officials from the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to our request for information.

ASSUMPTION (continued)

Officials from the following school districts: Blue Springs, Branson, Charleston R-I, Cole R-I, Columbia, Fair Grove, Harrison R-IX, Independence, Jefferson City, Johnson County R-7, Kansas City, Kirksville, Kirbyville R-V, Lee's Summit, Malden R-I, Malta Bend, Mexico, Monroe City R-I, Nixa, Parkway, Pattonville, Raymore-Peculiar R-III, Raytown, Riverview Gardens, Sedalia, Sikeston, Silex, Special School District of St. Louis County, Spickard, St Joseph, St Louis, St. Charles, Sullivan, Warren County R-III, and Waynesville did not respond to our request for information.

Officials from the following colleges: Crowder, East Central Community College, Harris-Stowe, Jefferson College, Kansas City Metro Community College, Lincoln University, Moberly Area Community College, Missouri Western State University, Southeast Missouri State University, State Fair Community College, St. Charles Community College, St. Louis Community College, Three Rivers Community College, and Truman State University did not respond to our request for information.

**Oversight** assumes the state, and local governments as well, would have costs to integrate an additional category of leave into their personnel systems, and the state would have the potential for additional personnel costs in agencies such as the Department of Corrections, the Department of Mental Health, and Department of Social Services which require certain functions to be staffed regardless of an individual employee's availability. Oversight assumes organizations such as public schools would have costs for replacement or substitute personnel during employee absences allowed by this proposal. Finally, Oversight assumes the state and local governments would have costs for the employee accommodations which would be mandated by the proposal.

**Oversight** notes that certain state agencies have positions which are supported, completely or in part, with federal funds. Oversight assumes there would be additional costs to these agencies if an employee supported by federal funds uses the leave authorized by this proposal, but assumes those costs would result in and be offset by the use of additional federal funding for those costs. Oversight will include the additional costs and funding in this fiscal note.

**Oversight** does not have any information regarding the number of employees who would be eligible for this new leave category, the number who would elect to take such leave, or the entities that would be impacted. Accordingly, Oversight will include an Unknown impact to the General Revenue Fund, Other State Funds, and to Local Governments.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>GENERAL REVENUE</b>			
<u>Additional cost</u> - Office of Administration Computer programming in SAM II system for leave tracking	(Unknown)	\$0	\$0
<u>Additional cost</u> - State Agencies Administrative and overtime expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<b>OTHER STATE FUNDS</b>			
<u>Additional cost</u> - State Agencies Administrative and overtime expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>
<b>OTHER FEDERAL FUNDS</b>			
<u>Additional revenue</u> - State agencies Additional federal funding for overtime expense	Unknown	Unknown	Unknown
<u>Additional cost</u> - State Agencies Overtime expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON OTHER FEDERAL FUNDS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>LOCAL GOVERNMENTS</b>			
<u>Additional cost - Local Governments</u>			
Administrative and overtime expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

FISCAL IMPACT - Small Business

Small business that employ at least 15 employees would be required to provide unpaid leave for employees that are affected by domestic violence, and could have administrative and personnel costs to comply with the proposed requirements.

FISCAL DESCRIPTION

This proposal would create a right to unpaid leave for employees that are affected by domestic violence.

Any person employed by a public employer or a private employer with at least 15 employees would be entitled to unpaid leave if the person, or a family or household member, is a victim of domestic violence. Domestic violence would be defined as assault, battery, coercion, harassment, sexual assault, unlawful imprisonment, and stalking. Such individuals would be entitled to 2 weeks of leave per year if their employer employs at least 50 employees and 1 week per year if their employer employs at least 15 but not more than 49 employees.

Employees would be required to give 48 hours notice of the intent to take such leave and may be required to provide certification to the employer that such leave is necessary. Permissible reasons for taking leave would include seeking medical attention, recovering from injury, obtaining victim services, obtaining counseling, participating in safety planning, and seeking legal assistance.

FISCAL DESCRIPTION (continued)

On return from leave, employees would be restored to the same or equivalent employment position and could not lose accrued benefits. Employers would be required to provide health coverage for the employee while on leave but the premium may be recovered if the employee does not return.

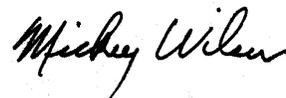
Employers and public agencies delivering public assistance would be barred from discriminating against individuals covered under the proposal and such entities would be required to make reasonable accommodations regarding such individuals unless the accommodation would constitute an undue hardship. Reasonable accommodations would include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, or assistance in documenting domestic violence that occurs at the workplace or in work-related settings.

The Attorney General would be given the authority to enforce the provisions of the act.

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

Office of State Courts Administrator  
Office of the Governor  
Office of Attorney General  
Office of Administration  
    Division of Personnel  
Department of Conservation  
Department of Revenue  
Department of Transportation  
Linn State Technical College  
Missouri Southern State University  
Missouri State University  
Northwest Missouri State University  
University of Central Missouri  
University of Missouri  
Cole County  
St. Louis County  
City of Columbia  
Fulton School District  
Francis Howell School District  
Special School District of St. Louis County  
St. Louis County Board of Election Commission



Mickey Wilson, CPA  
Director  
March 19, 2014

Ross Strope  
Assistant Director

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