

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3034H.01I
 Bill No.: HB 1461
 Subject: Firearms; Crimes and Punishment; Domestic Relations
 Type: Original
 Date: February 16, 2024

Bill Summary: This proposal modifies the offense of unlawful possession of a firearm.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | | |
|--|-------------------|--------------------|--------------------|-----------------------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 | Fully Implemented (FY 2031) |
| General Revenue | (\$67,823) | (\$138,359) | (\$201,609) | (\$347,260) |
| Total Estimated Net Effect on General Revenue | (\$67,823) | (\$138,359) | (\$201,609) | (\$347,260) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | | |
|--|------------|------------|------------|-----------------------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 | Fully Implemented (FY 2031) |
| | | | | |
| Total Estimated Net Effect on Other State Funds | \$0 | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | | |
|---|------------|------------|------------|-----------------------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 | Fully Implemented (FY 2031) |
| | | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | | |
|---|--------------|--------------|--------------|-----------------------------|
| FUND AFFECTED | FY 2025 | FY 2026 | FY 2027 | Fully Implemented (FY 2031) |
| General Revenue | 0 FTE | 0 FTE | 0 FTE | 1 FTE |
| Total Estimated Net Effect on FTE | 0 FTE | 0 FTE | 0 FTE | 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 | Fully Implemented (FY 2031) |
| Local Government | \$0 | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

§571.070 – Unlawful possession of a firearm

Officials from the **Department of Corrections (DOC)** state this proposal modifies the offense of unlawful possession of a firearm.

Section 571.070 expands the elements for those who could be charged for unlawful possession of firearms when someone has a restraining order issued against him or her for harassing, stalking, or threatening a family member or child. The second is for possessing a firearm after being convicted of a misdemeanor crime of domestic assault, being illegally or unlawfully in the United States, being dishonorably discharged from the Armed Forces, or renouncing U.S. citizenship. Unlawful possession of a firearm is a class D felony, unless the person has been convicted of a dangerous felony, in which case it is a class C felony. It is unknown the number of people that this may encompass. Therefore, the DOC will utilize a standard D felony and C felony response to estimate the possible fiscal impact.

For each new nonviolent class D felony, the department estimates three people could be sentenced to prison and five to probation. The average sentence for a nonviolent class D felony offense is 5 years, of which 2.8 years will be served in prison with 1.7 years to first release. The remaining 2.2 years will be on parole. Probation sentences will be 3 years.

Change in prison admissions and probation openings with legislation

| | FY2025 | FY2026 | FY2027 | FY2028 | FY2029 | FY2030 | FY2031 | FY2032 | FY2033 | FY2034 |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| New Admissions | | | | | | | | | | |
| Current Law | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| After Legislation | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 |
| Probation | | | | | | | | | | |
| Current Law | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| After Legislation | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Change (After Legislation - Current Law) | | | | | | | | | | |
| Admissions | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 |
| Probations | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Cumulative Populations | | | | | | | | | | |
| Prison | 6 | 12 | 16 | 16 | 16 | 16 | 16 | 16 | 16 | 16 |
| Parole | 0 | 0 | 2 | 8 | 14 | 14 | 14 | 14 | 14 | 14 |
| Probation | 10 | 20 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 |
| Impact | | | | | | | | | | |
| Prison Population | 6 | 12 | 16 | 16 | 16 | 16 | 16 | 16 | 16 | 16 |
| Field Population | 10 | 20 | 32 | 38 | 44 | 44 | 44 | 44 | 44 | 44 |
| Population Change | 16 | 32 | 48 | 54 | 60 | 60 | 60 | 60 | 60 | 60 |

For each new class C felony, the department estimates four people could be sentenced to prison and six to probation. The average sentence for a class C felony offense is 6.9 years, of which 3.7 years will be served in prison with 2.1 years to first release. The remaining 3.2 years will be on parole. Probation sentences will be 3 years.

Change in prison admissions and probation openings with legislation-Class C Felony

| | FY2025 | FY2026 | FY2027 | FY2028 | FY2029 | FY2030 | FY2031 | FY2032 | FY2033 | FY2034 |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| New Admissions | | | | | | | | | | |
| Current Law | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| After Legislation | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 |
| Probation | | | | | | | | | | |
| Current Law | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| After Legislation | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 |
| Change (After Legislation - Current Law) | | | | | | | | | | |
| Admissions | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 |
| Probations | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 |
| Cumulative Populations | | | | | | | | | | |
| Prison | 4 | 8 | 12 | 15 | 15 | 15 | 15 | 15 | 15 | 15 |
| Parole | | | | 1 | 5 | 9 | 13 | 13 | 13 | 13 |
| Probation | 6 | 12 | 18 | 18 | 18 | 18 | 18 | 18 | 18 | 18 |
| Impact | | | | | | | | | | |
| Prison Population | 4 | 8 | 12 | 15 | 15 | 15 | 15 | 15 | 15 | 15 |
| Field Population | 6 | 12 | 18 | 19 | 23 | 27 | 31 | 31 | 31 | 31 |
| Population Change | 10 | 20 | 30 | 34 | 38 | 42 | 46 | 46 | 46 | 46 |

Combined Cumulative Estimated Impact

The combined cumulative estimated impact on the department is 23 additional offenders in prison and 53 additional offenders on field supervision by FY 2031.

Change in prison admissions and probation openings with legislation

| | FY2025 | FY2026 | FY2027 | FY2028 | FY2029 | FY2030 | FY2031 | FY2032 | FY2033 | FY2034 |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| New Admissions | | | | | | | | | | |
| Current Law | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| After Legislation | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 |
| Probation | | | | | | | | | | |
| Current Law | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| After Legislation | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 |
| Change (After Legislation - Current Law) | | | | | | | | | | |
| Admissions | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 |
| Probations | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 | 11 |
| Cumulative Populations | | | | | | | | | | |
| Prison | 7 | 14 | 20 | 23 | 23 | 23 | 23 | 23 | 23 | 23 |
| Parole | 0 | 0 | 1 | 5 | 12 | 16 | 20 | 20 | 20 | 20 |
| Probation | 11 | 22 | 33 | 33 | 33 | 33 | 33 | 33 | 33 | 33 |
| Impact | | | | | | | | | | |
| Prison Population | 7 | 14 | 20 | 23 | 23 | 23 | 23 | 23 | 23 | 23 |
| Field Population | 11 | 22 | 34 | 38 | 45 | 49 | 53 | 53 | 53 | 53 |
| Population Change | 18 | 36 | 54 | 61 | 68 | 72 | 76 | 76 | 76 | 76 |

| | # to prison | Cost per year | Total Costs for prison | Change in probation & parole officers | Total cost for probation and parole | # to probation & parole | Grand Total - Prison and Probation (includes 2% inflation) |
|---------|----------------|------------------|----------------------------------|--|--|-------------------------------|--|
| Year 1 | 7 | (\$9,689) | (\$67,823) | 0 | \$0 | 11 | (\$67,823) |
| Year 2 | 14 | (\$9,689) | (\$138,359) | 0 | \$0 | 22 | (\$138,359) |
| Year 3 | 20 | (\$9,689) | (\$201,609) | 0 | \$0 | 34 | (\$201,609) |
| Year 4 | 23 | (\$9,689) | (\$236,487) | 0 | \$0 | 38 | (\$236,487) |
| Year 5 | 23 | (\$9,689) | (\$241,217) | 0 | \$0 | 45 | (\$241,217) |
| Year 6 | 23 | (\$9,689) | (\$246,041) | 0 | \$0 | 49 | (\$246,041) |
| Year 7 | 23 | (\$9,689) | (\$250,962) | 1 | (\$96,298) | 53 | (\$347,260) |
| Year 8 | 23 | (\$9,689) | (\$255,981) | 1 | (\$87,743) | 53 | (\$343,724) |
| Year 9 | 23 | (\$9,689) | (\$261,101) | 1 | (\$88,683) | 53 | (\$349,784) |
| Year 10 | 23 | (\$9,689) | (\$266,323) | 1 | (\$89,633) | 53 | (\$355,956) |

If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$26.545 per day or an annual cost of \$9,689 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$99.90 per day or an annual cost of \$36,464 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

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

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 the State Public Defender (SPD)** state per the recently released National Public Defense Workload Study, the new charge contemplated by this change to Section 571.070 would take approximately thirty-five hours of SPD work for reasonably effective representation. If one hundred cases were filed under this section in a fiscal year, representation would result in a need for an additional one to two attorneys. Because the number of cases that will be filed under this statute is unknown, the exact additional number of attorneys necessary is unknown. Each case would also result in unknown increased costs in the need for core staff, travel and litigation expenses.

Oversight assumes this proposal will not create the number of new cases required to request additional FTE for the SPD and that the SPD can absorb the additional caseload required by this proposal with current staff and resources. Therefore, Oversight will reflect no fiscal impact to the SPD for fiscal note purposes. However, if multiple bills pass which require additional staffing and duties, the SPD may request funding through the appropriation process.

Officials from the **Department of Public Safety – Missouri Highway Patrol**, the **Department of Social Services**, the **Missouri National Guard**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **Phelps County Sheriff's Department**, the **Kansas City Police Department**, and the **St. Louis County Police 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 received from state agencies and political subdivisions; however, other local law enforcement were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

This proposal has an emergency clause.

| <u>FISCAL IMPACT</u> <u>– State</u> <u>Government</u> | FY 2025 | FY 2026 | FY 2027 | Fully Implemented (FY 2031) |
|---|-------------------|--------------------|--------------------|-----------------------------------|
| GENERAL REVENUE | | | | |
| <u>Costs – DOC</u> (§571.070) | | | | |
| Personal Service | \$0 | \$0 | \$0 | (\$48,174) |
| Fringe Benefits | \$0 | \$0 | \$0 | (\$34,616) |
| Exp. & Equip. | \$0 | \$0 | \$0 | (\$13,508) |
| Increased incarceration costs | (\$67,823) | (\$138,359) | (\$201,609) | (\$250,962) |
| Total Costs - DOC | (\$67,823) | (\$138,359) | (\$201,609) | (\$347,260) |
| FTE Change - DOC | 0 FTE | 0 FTE | 0 FTE | 1 FTE |
| ESTIMATED NET EFFECT ON GENERAL REVENUE | (\$67,823) | (\$138,359) | (\$201,609) | (\$347,260) |
| Estimated Net FTE Change on General Revenue | 0 FTE | 0 FTE | 0 FTE | 1 FTE |

| <u>FISCAL IMPACT</u> <u>– Local</u> <u>Government</u> | FY 2025 | FY 2026 | FY 2027 | Fully Implemented (FY 2031) |
|---|-------------------|-------------------|-------------------|-----------------------------------|
| | <u>\$0</u> | <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

UNLAWFUL POSSESSION OF A FIREARM (Section 571.070)

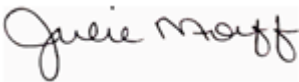
Currently, a person is in unlawful possession of a firearm if that person knowingly possesses a firearm and has been convicted of a felony by any state, is a fugitive from justice, is habitually intoxicated, or has been found mentally incompetent.

This bill expands unlawful possession of a firearm to include any person who has been convicted of domestic assault, is in the United States illegally, was dishonorably discharged from the United States Armed Forces, has renounced their United States citizenship, or has an order of protection issued against them.

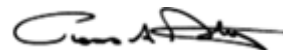
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Department of Social Services
Missouri National Guard
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
Phelps County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department



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