COMMITTEE ON LEGISLATIVE RESEARCH OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0828S.04P

Bill No.: Perfected SS #2 for SB 26

Subject: Law Enforcement Officers and Agencies; Criminal Procedure; Attorneys;

Administrative Law

Type: Original

Date: February 23, 2021

Bill Summary: This proposal creates provisions relating to public safety.

FISCAL SUMMARY

EST	IMATED NET EF	FECT ON GENER	RAL REVENUE FU	JND
FUND	FY 2022	FY 2023	FY 2024	Fully
AFFECTED				Implemented
				(FY 2031)
General Revenue	(Could exceed	(Could exceed	(Could exceed	(Could exceed
	\$303,777)	\$675,679)	\$1,052,939)	\$3,902,821)
Total Estimated				
Net Effect on				
General	(Could exceed	(Could exceed	(Could exceed	(Could exceed
Revenue	\$303,777)	\$675,679)	\$1,052,939)	\$3,902,821)

E	STIMATED NET	EFFECT ON OTH	ER STATE FUND	S
FUND	FY 2022	FY 2023	FY 2024	Fully
AFFECTED				Implemented
				(FY 2031)
988 Public				
Safety Fund*	\$0	\$0	\$0	\$0
Total Estimated				
Net Effect on				
Other State				
Funds	\$0	\$0	\$0	\$0

^{*}Income and costs net to zero.

Numbers within parentheses: () indicate costs or losses.

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	ESTIMATED NE	T EFFECT ON FI	EDERAL FUNDS	
FUND	FY 2022	FY 2023	FY 2024	Fully
AFFECTED				Implemented
				(FY 2031)
Total Estimated				
Net Effect on				
All Federal				
Funds	\$0	\$0	\$0	\$0

ESTIM	IATED NET EFFE	CT ON FULL TIN	ME EQUIVALENT	(FTE)
FUND	FY 2022	FY 2023	FY 2024	Fully
AFFECTED				Implemented
				(FY 2031)
General				
Revenue*	0 FTE	(1) FTE	(1) FTE	(7) FTE
Total Estimated				
Net Effect on				
FTE	0 FTE	(1) FTE	(1) FTE	(7) FTE

^{*}Increased incarceration time's result in a reduction in the Probation and Parole population – resulting in a reduction in Probation and Parole officers.

- ⊠ 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	FY 2022	FY 2023	FY 2024	Fully							
AFFECTED				Implemented							
				(FY 2031)							
Local											
Government	\$0	\$0	\$0	\$0							

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FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§67.030 – Local law enforcement budgets

Officials from the **City of Kansas City** state the provisions of §67.030 in this legislation could have a negative fiscal impact if there was a budget reduction.

In response to a previous version, officials from the **City of Corder** stated while this is a step in the right direction, there would still be an impact as litigation would cost the same if not more than a 12% decrease of the \$30,000 police department budget.

Oversight assumes rarely will a political subdivision decrease their budget for law enforcement by an amount exceeding 12 percent in relation to other items in the proposed budget over a five-year aggregate amount. Therefore, Oversight will reflect a zero impact in the fiscal note to local governments for this section of the proposal.

§§557.045, 574.045, and 574.085 – Special victims, unlawful traffic interference, and vandalism

In response to a previous version, officials from the **Department of Corrections (DOC)** assumed the following:

In addition to the creation of new penalties, the bill proposes to prohibit probation and parole eligibility for offenders committing dangerous felonies if the victim is a law enforcement officer, firefighter, or emergency service provider. Law enforcement officers and emergency providers are defined as special victims in section 565.002, and these offenses are identifiable by reference to their enhanced felony classes as defined in each respective section of legislation.

Current statutes allow probation and 120-day court stipulated sentences for all the offenses. The bill mandates no probation or parole for dangerous felonies against law enforcement officers, fire fighters, and emergency service providers. No parole means that an offender is required to serve to the conditional release unless other sentencing restrictions make the sentence ineligible for conditional release. The dangerous felonies for which statute allows enhanced sentencing when offenses are committed against persons classified as special victims are: Assault 1st degree and Assault 2nd degree, if the victim is a special victim,

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are dangerous felonies in which the offenders would serve 100% of the sentence because they are excluded from the provisions of conditional release.

To assess the potential impact of changes proposed in this bill, DOC analyzed FY 2020 new prison admissions, new probation cases, and time served to first release for offenders with sentences for assaults on special victims. In FY 2020, there were 72 new court commitments (including 120-day admissions) to prison with an average sentence of 17.0 years for first degree assault on a special victim. There were 29 new court commitments to prison with an average sentence of 8.2 years for second degree assault on a special victim.

FY 2020 New court commitments (including 120-day admissions) to prison based on assaults on special victims.

MISSOURI STATUTE	DESCRIPTION	OFFENSE CLASS	OFFENDERS	AVERAGE SENTENCE
565050	Assault 1st Degree	A	72	17.0
565052	Assault 2nd Degree	В	29	8.2

In FY 2020, there were 23 new probation cases with an average sentence of 10.9 years for first degree assault on a special victim. There were 19 new probation cases with an average sentence of 6.9 years for second degree assault on a special victim. Under the proposed legislation, all of these offenders would be sentenced to prison instead of probation.

FY 2020 New probation cases based on assaults on special victims.

MISSOURI STATUTE	DESCRIPTION	OFFENSE CLASS	OFFENDERS	AVERAGE SENTENCE
565050	Assault 1st Degree	A	23	10.9
565052	Assault 2 nd Degree	В	19	6.9

In FY 2020, 96 offenders in prison on sentences for first degree assault on a special victim were released from prison after serving, on average, 14.9 years, or approximately 90% of the length of the sentence. There were 18 offenders in prison for a second degree assault on a special victim who were first released from prison after serving, on average, 4.1 years, or approximately 50% of the length of the sentence.

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FY 2020 Offenders released from prison after serving time for convictions of assaults on special victims.

					TIME	PERCENT SENTENCE	
					SERVED	SERVED	
MISSOURI		OFFENSE		AVERAGE	TO FIRST	TO FIRST	
STATUTE	DESCRIPTION	CLASS	OFFENDERS	SENTENCE	RELEASE	RELEASE	
565050,	Assault 1st	A	96	17.5	14.9	90%	
565081	Degree	A	90	17.3	14.9	9070	
565052,	Assault 2 nd	В	18	8.4	4.1	50%	
565082	Degree	D	10	0.4	 4 .1	30%	

To estimate the potential impact of this bill, we assume all offenders with class A and class B felony offenses will serve 100% of their sentence in prison.

Section 557.045 prohibits eligibility for probation or parole for first degree assault on special victim

Class A Felony Assaults in 1st Degree on Special Victims (Law Enforcement, emergency workers etc.)

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	72	72	72	72	72	72	72	72	72	72
After Legislation	95	95	95	95	95	95	95	95	95	95
Probation										
Current Law	23	23	23	23	23	23	23	23	23	23
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation	- Current La	w)								
Admissions	23	23	23	23	23	23	23	23	23	23
Probations	-23	-23	-23	-23	-23	-23	-23	-23	-23	-23
Cumulative Populations										
Prison	23	46	69	92	115	138	161	184	207	230
Parole										
Probation	-23	-46	-69	-92	-115	-138	-161	-184	-207	-230
Impact										
Prison Population	23	46	69	92	115	138	161	184	207	230
Field Population	-23	-46	-69	-92	-115	-138	-161	-184	-207	-230
Population Change	0	0	0	0	0	0	0	0	0	0

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Section 557.045 prohibits eligibility for probation or parole for second degree assault on special victim

Class B Felony Assaults in 2nd Degree on Special Victims (Law Enforcement, emergency workers etc.)

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	29	29	29	29	29	29	29	29	29	29
After Legislation	48	48	48	48	48	48	48	48	48	48
Probation										
Current Law	19	19	19	19	19	19	19	19	19	19
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation	- Current La	w)								
Admissions	19	19	19	19	19	19	19	19	19	19
Probations	-19	-19	-19	-19	-19	-19	-19	-19	-19	-19
Cumulative Populations										
Prison	19	38	57	76	95	129	177	225	234	234
Parole						-15	-44	-73	-78	-78
Probation	-19	-38	-57	-76	-95	-114	-131	-131	-131	-131
Impact										
Prison Population	19	38	57	76	95	129	177	225	234	234
Field Population	-19	-38	-57	-76	-95	-129	-175	-204	-209	-209
Population Change	0	0	0	0	0	0	2	21	25	25

Section 574.045

For each new nonviolent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislatio	n - Current La	w)								
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

In response to a previous version, the Missouri State Public Defender (SPD) stated they cannot assume existing staff will be able to provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime(s) of misdemeanor or felony unlawful traffic interference in violation of Section 574.045 RSMo. The Missouri State

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Public Defender System is currently providing legal representation in caseloads in excess of recognized standards. While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Missouri State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD 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 SPD for fiscal note purposes.

Section 574.085

In response to a previous version, the **DOC** assumed for each new nonviolent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislatio	n - Current La	w)								
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations	;									
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

For each new nonviolent class D felony, the Department estimates three people will 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.

The cumulative impact on the department is estimated to be 8 additional offenders in prison and 22 additional offenders on field supervision by FY 2026.

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Change in prison admissions and probation openings with legislation-Class D Felony (nonviolent)

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
Change (After Legislation	n - Current La	w)								
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	5	5	5	5	5	5	5	5	5	5
Cumulative Populations										
Prison	3	6	8	8	8	8	8	8	8	8
Parole			1	4	7	7	7	7	7	7
Probation	5	10	15	15	15	15	15	15	15	15
Impact										
Prison Population	3	6	8	8	8	8	8	8	8	8
Field Population	5	10	16	19	22	22	22	22	22	22
Population Change	8	16	24	27	30	30	30	30	30	30

Due to the relatively long sentences for the class A and class B felonies included in this analysis, the entire estimated impact goes beyond the 10-year timeframe of this response.

Within 10 years, DOC estimates that if the proposed legislation were passed, there could be up to an additional 477 offenders in prison and 403 fewer offenders on field supervision.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	101	101	101	101	101	101	101	101	101	101
After Legislation	148	148	148	148	148	148	148	148	148	148
Probation										
Current Law	42	42	42	42	42	42	42	42	42	42
After Legislation	9	9	9	9	9	9	9	9	9	9
Change (After Legislatio	n - Current La	w)								
Admissions	47	47	47	47	47	47	47	47	47	47
Probations	-33	-33	-33	-33	-33	-33	-33	-33	-33	-33
Cumulative Populations										
Prison	47	94	139	181	223	279	350	421	454	477
Parole	0	0	2	6	9	-5	-34	-63	-69	-69
Probation	-33	-66	-99	-141	-183	-225	-265	-288	-311	-334
Impact										
Prison Population	47	94	139	181	223	279	350	421	454	477
Field Population	-33	-66	-97	-135	-174	-230	-299	-351	-380	-403
Population Change	14	28	42	46	49	49	51	70	74	74

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	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total savings for probation & parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	47	(\$7,756)	(\$303,777)	0	\$0	(33)	(\$303,777)
Year 2	94	(\$7,756)	(\$743,645)	(1)	\$67,966	(66)	(\$675,679)
Year 3	139	(\$7,756)	(\$1,121,639)	(1)	\$68,700	(97)	(\$1,052,939)
Year 4	181	(\$7,756)	(\$1,489,762)	(2)	\$138,882	(135)	(\$1,350,880)
Year 5	223	(\$7,756)	(\$1,872,162)	(3)	\$210,574	(174)	(\$1,661,588)
Year 6	279	(\$7,756)	(\$2,389,147)	(4)	\$283,801	(230)	(\$2,105,346)
Year 7	350	(\$7,756)	(\$3,057,081)	(5)	\$358,598	(299)	(\$2,698,483)
Year 8	421	(\$7,756)	(\$3,750,776)	(6)	\$434,980	(351)	(\$3,315,796)
Year 9	454	(\$7,756)	(\$4,125,675)	(7)	\$512,990	(380)	(\$3,612,685)
Year 10	477	(\$7,756)	(\$4,421,379)	(7)	\$518,558	(403)	(\$3,902,821)

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2019, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders 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. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 48 probation and parole districts.

The DOC cost of incarceration in \$21.251 per day or an annual cost of \$7,756 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

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

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§590.192 – 988 Public Safety Fund

Officials from the **Department of Public Safety - Office of the Director (DIR)** state the creation of the new fund does not by itself create a need for additional staffing and resources in the Department of Public Safety. However, if the department is required to manage the fund, promulgate rules, and disperse payments it would require an additional staff person to accomplish these activities.

Oversight notes because this is a dedicated fund under the Department of Public Safety, staff may be required to administer this program. Therefore, Oversight will reflect a \$0 to (Unknown) impact to DPS for fiscal note purposes.

Oversight notes §590.192 creates the "988 Public Safety Fund" for the purpose of providing services for peace officers to assist in coping with stress and potential psychological trauma resulting from a response to a critical incident or emotionally difficult event. The fund shall consist of moneys appropriated by the General Assembly. Oversight will reflect the possibility that the General Assembly could appropriate moneys to this new fund from the General Revenue Fund. Oversight also assumes all appropriated moneys, if any, will be expended in the same year on services such as consultation, risk management, education, intervention, and other crisis intervention services provided by DPS to peace officers affected by a critical incident.

Bill as a Whole

In response to a previous version, officials from the **Missouri Department of Conservation** (MDC) stated an unknown fiscal impact, but likely less than \$250,000 for training.

Oversight notes without elaboration from the MDC and statements of no impact from other law enforcement agencies, Oversight will assume the MDC will be able to implement the provisions within the proposal with existing resources.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The enactment of a new crime (574.045) creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

Officials from the Department of Higher Education and Workforce Development, the Department of Public Safety - Missouri Highway Patrol, the Missouri Department of Transportation, the Department of Mental Health, the City of Claycomo, the City of Springfield, the Ellisville Police Department, and the St. Joseph Police Department each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the Attorney General's Office, the Department of Natural Resources, the Department of Labor and Industrial Relations, the Department of Public Safety – (Capitol Police and Fire Safety), the Department of Social

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Services, the Office of Administration, the Office of the State Courts Administrator, the City of O'Fallon, the Kansas City Police Department, the St. Louis County Police Department, the Crawford County 911 Board, Missouri State University, and the University of Central Missouri each assumed the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Fruitland Area Fire Protection District** responded to the legislation but did not provide a fiscal impact.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

SEQ CHAPTER \h \r 1

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other police and sheriff's departments, colleges and universities, fire departments, ambulance and EMS, cities, and counties were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2031)
GENERAL REVENUE FUND				
Transfer Out – to the	\$0 or	\$0 or	\$0 or	\$0 or
988 Public Safety Fund	(Unknown)	(Unknown)	(Unknown)	(Unknown)
Savings – DOC				
(§§557.045, 574.045, and 574.085) Fewer P&P officers				
Personal service	\$0	\$39,140	\$39,532	\$296,681
Fringe benefits	\$0	\$25,269	\$25,522	\$191,540
Equipment and				
expense	<u>\$0</u>	<u>\$3,557</u>	<u>\$3,646</u>	\$30,337
<u>Total savings</u> - DOC	<u>\$0</u>	<u>\$67,966</u>	<u>\$68,700</u>	<u>\$518,558</u>
FTE Change - DOC	0 FTE	(1) FTE	(1) FTE	(7) FTE
Costs – DOC Increased				
incarceration costs	(\$303,777)	(\$743,645)	(\$1,121,639)	(\$4,421,379)
ESTIMATED NET EFFECT ON THE				
GENERAL REVENUE FUND	(Could exceed \$303,777)	(Could exceed \$675,679)	(Could exceed \$1,052,939)	(Could exceed \$3,902,821)
Estimated Net FTE				
Change on the General Revenue Fund	0 FTE	(1) FTE	(1) FTE	(7) FTE

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FISCAL IMPACT –	FY 2022	FY 2023	FY 2024	Fully
State Government	(10 Mo.)			Implemented
(continued)	, , , ,			(FY 2031)
988 PUBLIC				
SAFETY FUND				
<u>Transfer In</u> – from	\$0 or	\$0 or	\$0 or	\$0 or
General Revenue	Unknown	Unknown	Unknown	Unknown
Costs – DPS				
Administration and				
expenditures for the	\$0 or	\$0 or	\$0 or	\$0 or
program	(Unknown)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET				
EFFECT TO THE				
988 PUBLIC				
SAFETY FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Local Government	FY 2022 (10 Mo.)	FY 2023	FY 2024	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

This act creates provisions relating to public safety.

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

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SOURCES OF INFORMATION

Attorney General's Office

Department of Corrections

Department of Higher Education and Workforce Development

Department of Natural Resources

Department of Labor and Industrial Relations

Department of Public Safety

Department of Social Services

Department of Mental Health

Missouri Department of Conservation

Missouri Department of Transportation

Missouri Office of Prosecution Services

Office of the State Courts Administrator

Office of the State Public Defender

City of Claycomo

City of O'Fallon

City of Springfield

Ellisville Police Department

Kansas City Police Department

St. Joseph Police Department

St. Louis County Police Department

Crawford County 911 Board

Fruitland Area Fire Protection District

Missouri State University

University of Central Missouri

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February 23, 2021

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February 23, 2021