

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4329S.01I
 Bill No.: SB 850
 Subject: Department of Corrections; Crimes and Punishment; Firearms; Prisons and Jails
 Type: Original
 Date: January 23, 2022

Bill Summary: This proposal modifies provisions relating to criminal laws.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2029)
General Revenue	\$0	\$0	(\$120,239)	(\$676,460)
Total Estimated Net Effect on General Revenue	\$0	\$0	(\$120,239)	(\$676,460)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2029)
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 2023	FY 2024	FY 2025	Fully Implemented (FY 2029)
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 2023	FY 2024	FY 2025	Fully Implemented (FY 2029)
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 2023	FY 2024	FY 2025	Fully Implemented (FY 2029)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§558.016, 558.019, 571.015, and 571.070 – Criminal laws

Officials from the **Department of Corrections (DOC)** state this proposal modifies provisions relating to criminal laws. The proposal defines Armed Criminal Action (ACA) as an unclassified felony and removes maximum sentence lengths and eligibility for parole from ACA offenses.

It also proposes to modify the felony class for unlawful possession of a firearm from a class D felony to a class C felony if the person has no history of a dangerous felony conviction or prior conviction for unlawful possession of a firearm and from a class C felony to a class B felony if the person has a prior conviction for a dangerous felony or a prior conviction for unlawful possession of a firearm.

This proposal intends to extend the amount of time an offender spends in prison prior to first release when admitted on an ACA sentence. Given ACA sentences are already defined as dangerous felonies, which require a minimum prison term of 85% of the length of the sentence prior to first release and current legislation requires all ACA sentences to be served consecutive to other sentences, DOC estimates that the proposed changes to the sentencing for ACA offenses presents minimal to no potential to impact department operations.

The proposal also intends to increase the penalties associated with first and subsequent convictions related to the unlawful possession of a firearm.

There were 70 offenders admitted to prison in FY 2021 on a new court commitment for unlawful possession of a firearm as their most serious sentence. Of those, two had a prior conviction for a dangerous felony or unlawful possession of a firearm. Therefore, DOC estimates the impact based on 68 new court commitments per year as class C felonies instead of class D felonies and two new court commitments per year as class B felonies instead of class C felonies.

Change from class D felony to class C felony

The difference in an average sentence lengths between a nonviolent class D felony and a class C felony is 1.9 years. The difference in average time to first release from prison for a nonviolent class D felony and a class C felony is 0.4 years. When these differences are applied to 68 new court commitments annually, this equates to maximum cumulative impact of approximately 61 additional offenders in prison and 68 additional offenders on field supervision after seven years.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	68	68	68	68	68	68	68	68	68	68
After Legislation	68	68	68	68	68	68	68	68	68	68
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions										
Probations										
Cumulative Populations										
Prison			14	61	61	61	61	61	61	61
Parole			-14	-61	-61	7	68	68	68	68
Probation										
Impact										
Prison Population			14	61	61	61	61	61	61	61
Field Population			-14	-61	-61	7	68	68	68	68
Population Change	0	0	0	0	0	68	129	129	129	129

Change from class C felony to class B felony

The difference in an average sentence length between a class C felony and a class D felony is 2.1 years. The difference in average time to first release from prison for a class C felony and a class D felony is 1.3 years. When these differences are applied to two new court commitments annually, this equates to maximum cumulative impact of approximately three additional offenders in prison and one additional offenders on field supervision after nine years.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	2	2	2	2	2	2	2	2	2	2
After Legislation	2	2	2	2	2	2	2	2	2	2
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions										
Probations										
Cumulative Populations										
Prison				1	3	3	3	3	3	3
Parole				-1	-3	-3	-3	-1	1	1
Probation										
Impact										
Prison Population				1	3	3	3	3	3	3
Field Population				-1	-3	-3	-3	-1	1	1
Population Change	0	0	0	0	0	0	0	2	4	4

Combined Estimated Cumulative Impact

The combined estimated cumulative impact of the proposed legislative changes is 64 additional offenders in prison and 65 additional offenders on field supervision by FY 2029.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	70	70	70	70	70	70	70	70	70	70
After Legislation	70	70	70	70	70	70	70	70	70	70
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	0	0	0	0	0	0	0	0	0	0
Probations	0	0	0	0	0	0	0	0	0	0
Cumulative Populations										
Prison	0	0	14	62	64	64	64	64	64	64
Parole	0	0	-14	-62	-64	4	65	67	69	69
Probation	0	0	0	0	0	0	0	0	0	0
Impact										
Prison Population	0	0	14	62	64	64	64	64	64	64
Field Population	0	0	-14	-62	-64	4	65	67	69	69
Population Change	0	0	0	0	0	68	129	131	133	133

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total savings or cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	0	(\$8,255)	\$0	0	\$0	0	\$0
Year 2	0	(\$8,255)	\$0	0	\$0	0	\$0
Year 3	14	(\$8,255)	(\$120,239)	0	\$0	(14)	(\$120,239)
Year 4	62	(\$8,255)	(\$543,137)	(1)	\$71,131	(62)	(\$472,006)
Year 5	64	(\$8,255)	(\$571,871)	(1)	\$71,897	(64)	(\$499,974)
Year 6	64	(\$8,255)	(\$583,308)	0	\$0	4	(\$583,308)
Year 7	64	(\$8,255)	(\$594,974)	1	(\$81,486)	65	(\$676,460)
Year 8	64	(\$8,255)	(\$606,874)	1	(\$74,255)	67	(\$681,129)
Year 9	64	(\$8,255)	(\$619,011)	1	(\$75,060)	69	(\$694,071)
Year 10	64	(\$8,255)	(\$631,391)	1	(\$75,873)	69	(\$707,264)

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 \$22.616 per day or an annual cost of \$8,255 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 \$88.12 per day or an annual cost of \$32,162 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 **Attorney General's Office**, the **Department of Public Safety - Missouri Highway Patrol**, the **Missouri Department of Transportation**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, and the **Office of the State Public Defender** assume 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.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2029)
GENERAL REVENUE FUND				
Cost – DOC (§§558.016, 558.019, 571.015, and 571.070) Change in P&P officers p. 3-6				
Personal service	\$0	\$0	\$0	(\$41,137)
Fringe benefits	\$0	\$0	\$0	(\$28,299)
Equipment and expense	\$0	\$0	\$0	(\$12,050)
Total cost - DOC	\$0	\$0	\$0	(\$81,486)
FTE Change - DOC	0 FTE	0 FTE	0 FTE	1 FTE
Cost – DOC Increased incarceration costs p. 3-6	\$0	\$0	(\$120,239)	(\$594,974)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	\$0	\$0	(\$120,239)	(\$676,460)
Estimated Net FTE Change to the General Revenue Fund	0 FTE	0 FTE	0 FTE	1 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2029)
	\$0	\$0	\$0	\$0

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act modifies provisions relating to criminal laws.

DANGEROUS OFFENDERS (Section 558.016)

Under current law, the court may sentence a person to an extended term of imprisonment if such person is a persistent or dangerous offender. This act adds that a "dangerous offender" shall also include a person who has been found guilty of a dangerous felony as defined in law.

MINIMUM PRISON TERMS FOR ARMED CRIMINAL ACTION (Sections 558.019 & 571.015)

Under current law, certain offenses are excluded from minimum prison terms for offenders who also have prior felony convictions. This act repeals the exclusion of the offense of armed criminal action.

This act also modifies the minimum prison terms for the offense of armed criminal action. For a person convicted of a first offense of armed criminal action, the term of imprisonment shall be no less than 3 years. For a person convicted of a second offense of armed criminal action, the term of imprisonment shall be no less than 5 years. Additionally, this act provides that a person convicted of armed criminal action shall not be eligible for probation, conditional release, or suspended imposition or execution of sentence; however, the person shall be eligible for parole.

OFFENSE OF UNLAWFUL POSSESSION OF FIREARMS (Section 571.070)

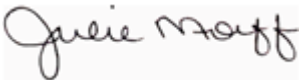
Under current law, unlawful possession of a firearm is a Class D felony, unless a person has been convicted of a dangerous felony then it is a Class C felony.

This act changes the penalty for the offense to a Class C felony, unless a person has been convicted of a dangerous felony or the person has a prior conviction for unlawful possession of a firearm, then it is a Class B felony.

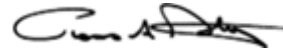
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Missouri Department of Transportation
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender



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