

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5321-11  
Bill No.: SCS for SB 699  
Subject: Counties; Courts; Crimes and Punishment; Criminal Procedure; Corrections Department; Prisons and Jails; Probation and Parole  
Type: Original  
Date: February 24, 2012

Bill Summary: This proposal modifies laws relating to criminal offenders under the supervision of the Department of Corrections.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	\$168,657	\$240,136	\$158,444
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$168,657</b>	<b>\$240,136</b>	<b>\$158,444</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 9 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</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 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Prosecution Services, Department of Public Safety - Missouri Highway Patrol** and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state the bill creates four new measures that impact their agency:

- **Sentencing and Corrections Oversight Commission** - This act creates a 13-member commission to oversee the implementation, and to calculate the effects, of this act. The duties of the commission also include determining ways to reinvest any cost savings realized from the passage of this act to pay for evidence-based practices to reduce recidivism and examining how restitution is collected for crime victims;
- **Earned Compliance Credits** - requires the Division of Probation and Parole to award earned compliance credits equal to 30 days for each full month the offender remains in compliance with the terms of probation or parole;
- **Administrative Jail Sanctions** - allows the Division of Probation and Parole to place offenders in jail for short periods of time when a probation and parole officer believes an offender has violated a condition of release unless the offender's order of release includes detention as a condition of the probation or parole. The first period of detention may be no longer than 48 hours and the offender may only spend up to 360 hours in jail in a calendar year. The division must reimburse counties at a rate of \$30 per day per offender; and
- **Mandatory Placement in 120-Day Program for First Revocation** - Under this act, the court must send certain offenders to one of the department's alternative 120 day or drug treatment programs before revoking the offender's probation upon a determination by the court that the offender committed a violation of the terms of release.

DOC state the new measures have the following fiscal impact:

- **Sentencing and Corrections Oversight Commission**: - the creation of the Sentencing and Corrections Oversight Commission will not create any cost avoidance/savings and could have minor administrative costs to the Department. However, those costs should be minimal.

ASSUMPTION (continued)

- **Earned Compliance Credits:** - this bill contains language changes that allow prior time under supervision to count towards the required two-year minimum time under supervision but not for earned credit. This means if an offender has six months remaining on their probation on August 28, 2012, earns three months credit in the first three months, and has served at least 24 months, the offender can be discharged at the end of November 2012.

This language allows earned credit savings to begin to accrue in FY13. In FY13 it should reduce the number of offenders supervised in the community by approximately 396 and generate \$183,357 in savings at \$1.27 per day. In FY14 it should reduce the number of offenders supervised in the community by 527 and generate a savings of \$244,476 at \$1.27 per day. In FY15 it should reduce 1,465 offenders at a savings of \$1.27 per offender per day for a total of \$679,101 in projected savings.

- **Administrative Jail Sanctions:** - the Department was unable to calculate any cost avoidance/savings from implementation of this measure. However, there will be a cost associated with using this measure and paying counties \$30 per day to hold DOC offenders in jail. This program was projected to start as a pilot in the first year (FY13) with an expanded pilot in year two (FY14) and full implementation in FY15. The initial cost of the pilot was estimated to be \$240,000. FY14 would expand to the amount of the pilot to \$500,000 and full implementation cost would be \$1,100,000 in FY15. The full implementation cost figure is based on calculations that approximately 2,500 offenders would be eligible for this measure at \$30 per day and 15 days per year.

The cost figures indicated here are subject to monies being appropriated by the General Assembly. The legislation states the cost shall be at least \$30 per day.

- **Mandatory Placement in 120-Day Program for First Revocation:** - the mandatory placement in 120-day programs is a cap on the amount of time for which offenders may be revoked to prison. This measure would create savings by decreasing the number of supervised offenders who are currently revoked to a term sentence and limiting their incarceration to 120 days.

Based on Department of Corrections' calculations, this measure will accrue cost avoidance/savings beginning in FY13, when the time reductions equal to 70 full-time prison beds would be achieved at a projected savings of \$225,300. This figure increases to 154 full-time beds and \$495,660 in projected savings in FY14. In FY15, the projected savings is for 180 full-time beds and \$579,343.

ASSUMPTION (continued)

Although there has been no discussion or calculation of fiscal impact, the DOC would like to note that there is a potential fiscal impact on the Department's Inmate Revolving Fund, which is funded through collection of an intervention fee paid by offenders under community supervision by the Division of Probation and Parole. The measures above may decrease the amount of time offenders are under supervision and result in decreasing the length of probation for the lowest risk offenders who would be most likely to pay their intervention fees.

The Department would also like to note that the figures provided for this fiscal note are based on the calculations provided by the DOC Research Section. The report submitted by the Working Group on Sentencing and Corrections also contains calculations provided by Applied Research Services, Inc. (ARS) that project higher savings estimates. We believe the figures we have calculated are a correct estimate based upon our knowledge and experience analyzing the departmental data that was the basis of the working group's report.

Although the DOC has developed cost avoidance/savings projections, the ultimate fiscal impact on the Department is dependent on many other factors such as newly proposed legislation to enhance or create new criminal penalties. The figures are based on our best estimate at this time.

	DOC 120 Day		DOC Earned Discharge		Total Savings	Admin Jail Sanctions Costs	Net Difference
	population	savings	Population	Savings			
FY 13	70	\$225,300	396	\$183,357	\$408,657	(\$240,000)	\$168,657
FY 14	154	\$495,660	527	\$244,476	\$740,136	(\$500,000)	\$240,136
FY 15	180	\$579,343	1,465	\$679,101	\$1,258,444	(\$1,100,000)	\$158,444
FY 16	190	\$611,528	1,465	\$679,101	\$1,290,629	(\$1,100,000)	\$190,629
FY 17	202	\$650,151	1,465	\$679,101	\$1,329,252	(\$1,100,000)	\$229,252
TOTAL		\$2,561,982		\$2,465,136		(\$4,040,000)	\$987,118

The Missouri Working Group on Sentencing and Corrections' Consensus Report released in December 2011, estimated a reduction in the Missouri prison population at the end of 2017 of between 245 and 677 inmates, at a savings of between \$7.7 million and \$16.6 million.

**Oversight** will utilize DOC's estimates of the fiscal impact of the changes in this proposal.

In response to a previous version of this proposal, officials from the **Office of the State Public Defender** stated this legislation will require a small amount of the State Public Defender's time in participating in the proposed Sentencing and Corrections Oversight Committee, but the cost benefits to the criminal justice system likely to result from the remainder of the legislation would more than outweigh that minimal time investment.

ASSUMPTION (continued)

The evidence compiled by the Pew Institute shows that the policies proposed here have a proven track record of reducing the number of probation violations and improving recidivism. Any reduction in probation violations means a reduction in public defender workload, as do improvements in reducing recidivism.

Officials from the counties of **Clay**, **Greene** and **Jasper** did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>GENERAL REVENUE FUND</b>			
<u>Savings - DOC</u>			
Earned Compliance Credits	\$183,357	\$244,476	\$679,101
<u>Savings - DOC</u>			
Mandatory placement in 120 day program	\$225,300	\$495,660	\$579,343
<u>Costs - DOC</u>			
Administrative Jail Sanctions	(\$240,000)	(\$500,000)	(\$1,100,000)
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b><u>\$168,657</u></b>	<b><u>\$240,136</u></b>	<b><u>\$158,444</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Income</u> - reimbursement from the state for Administrative Jail Sanctions	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> - of imprisonment for Administrative Jail Sanctions	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposal modifies provisions relating to probation, parole and conditional release.

**EARNED COMPLIANCE CREDITS** - under this act, the Division of Probation and Parole must award earned compliance credits to offenders placed on probation, parole, or conditional release beginning Oct. 1, 2012. The credit are equal to thirty days of time served for every calendar month the offender remains in compliance with the terms of probation, parole, or conditional release. The credits reduce the duration of the term, but may be suspended or rescinded if the offender violates probation or parole. The offender must serve at least two years of the sentence in custody or on probation or parole. Only certain offenders of class C and D felonies or drug crimes who are not on lifetime supervision may earn the credits. In addition, the court may limit eligibility for offenders of certain felonies.

**ADMINISTRATIVE JAIL SANCTIONS** - this act also allows the Division of Probation and Parole to place offenders in jail for short periods of time when a probation and parole officer believes an offender has violated a condition of release unless the offender's order of release includes detention as a condition of the probation or parole. The first period of detention may be no longer than 48 hours and the offender may only spend up to 360 hours in jail in a calendar year.

FISCAL DESCRIPTION (continued)

The department must reimburse counties at a rate determined by the department, but no less than \$30 per day per offender, for the period of detention. The department must certify to the counties before imposing a period of detention that there are enough funds to cover the cost of reimbursement. If there is not enough funding to cover the reimbursement or the jail does not have enough space, then the jail may refuse to accept offenders for detention. Once released from the period of detention, the offender can continue the probation or parole term unless new or additional information is brought forward that the offender was involved in the commission of a crime.

**MANDATORY PLACEMENT IN 120-DAY PROGRAM FOR FIRST REVOCATION** - under this act, the court must order the Department of Corrections to place certain offenders in one of the department's 120-day programs before revoking the offender's probation upon a determination by the court that the offender committed a violation of the terms of release.

Offenders who are on probation or parole for Class C or D felony offenses or a drug offense, have not been placed in a 120 day program during the same sentence, and whose probation or parole violation does not fall within certain specified types of offenses are eligible for placement in one of the alternative programs. The court may also limit eligibility for offenders of certain Class C and D felonies.

Once the offender has completed the program, the court must continue the term of probation, parole, or conditional release without modifying, enlarging, or extending the term based on the same violation.

Time served in the alternative program is to be credited against the offender's sentence.

**SENTENCING AND CORRECTIONS OVERSIGHT COMMISSION** - this act creates a 13-member commission to oversee the implementation, and to calculate the effects, of this act. The duties of the commission also include determining ways to reinvest any cost savings realized from the passage of this act to pay for evidence-based practices to reduce recidivism and examining how restitution is collected for crime victims.

The Governor and Missouri Supreme Court chief justice have the authority to appoint certain members to the commission, which serve staggered four-year terms. In addition, this act requires the chairs and ranking minority members of the Senate Judiciary Committee and the House Appropriations - Public Safety Committee, the directors of the Missouri State Public Defender System, Missouri Office of Prosecution Services, Missouri Department of Corrections, and the Board of Probation and Parole to serve as voting, ex officio members on the commission. The



FISCAL DESCRIPTION (continued)

Judiciary chair and the Appropriations chair shall serve as co-chairs of the commission.

This substitute requires the commission to issue a report on December 31, 2012, and each year thereafter, to the Speaker of the House, Senate President Pro Tempore, Missouri Supreme Court Chief Justice, and the Governor.

The commission's first meeting must occur before February 28, 2013 and the members must meet at least twice a year, only receiving compensation for their actual and necessary expenses. Staff and consultants may be employed by the commission.

The provisions establishing the commission will expire on August 28, 2018.

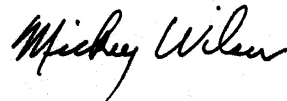
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Courts Administrator  
Office of the State Public Defender  
Office of Prosecution Services  
Department of Corrections  
Department of Public Safety

**Not Responding:**

Clay County  
Greene County  
Jasper County



Mickey Wilson, CPA  
Director  
February 24, 2012