

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4510-10
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HCS for HB 1371
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: June 4, 2014

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	\$0	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

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

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

- 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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Oversight assumes TAFP SS for SCS for HCS for HB 1371 simply makes specific corrections to TAFP HCS for SS for SCS for SB 491. Oversight has reflected the costs of the criminal code revision in that fiscal note (4153-07) and will not show duplicated costs to the agencies in this fiscal note from passage of both bills.

Officials from the **Office of the State Courts Administrator (CTS)** state they will need to adopt the new charge codes and develop a new charge code schema. There may be some unknown costs associated with updating the JIS (statewide court automation) system used by the courts and developing a new charge code schema. We would not anticipate a fiscal impact in excess of \$100,000.

Officials from the **Office of the State Public Defender (SPD)** state additional Public Defenders would be required to provide representation to the indigent accused of the new crimes created that would potentially result in jail time, if found guilty.

The SPD states there are changes that should reduce the number of attorneys we need:

(1) Creation of additional fine only offenses (class D misdemeanors) for first time offenders, thus rendering these defendants ineligible for our services:

-- Possession of a Controlled Substance (195.202) and Possession of Marijuana < 10 grams (195.203) (FY 2013 cases = 1,289)

-- Misdemeanor Use of Drug Paraphernalia for first time drug offenders (195.233) (FY2013 cases = 726)

-- Stealing (570.030) (FY2013 cases = 1,891) and Receiving (570.080) (FY2013 cases = 298) Less Than \$150 for first time stealing offenders.

(2) Increase in felony threshold value for property crimes from \$500 to \$750. Most statistically relevant offenses affected are:

-- Stealing (570.030); (FY2013 cases = 3,793)

-- Receiving (570.080); (FY2013 cases = 808)

ASSUMPTION (continued)

- Passing Bad Checks (570.120); (FY2013 cases = 835)
- Property Damage (569.100); (FY2013 cases = 302)
- Fraudulent Use of Credit Device (570.130); (FY2013 cases = 139)

(3) Changing Stealing Third Offense to Stealing Fourth Offense (570.040); (FY2013 cases = 345)

The SPD states there are also changes that should increase the number of attorneys we need:

- (1) Creation of new felony Assault Third Degree (565.070) (FY2013 cases = 945) and a new felony Domestic Assault Third Degree (565.074). (FY2013 cases = 1,654)
- (2) Creation of new felony Harassment First Degree (565.090). (FY2013 cases = 147)

The estimate is that with these changes to stay at the level we are currently at, we would need an additional 7.5 attorneys and the current level of support staff.

The proposed legislation would also result in an increase in the number of trials, therefore an increased in the number of Appeals and PCRS would also increase. (FY2013 = 274 Jury Trials, 293 court trials)

The estimate is that with these changes, the SPD would need an additional 7.5 attorneys and the current level of support staff. SPD assumes a total need of 22.5 FTE (7.5 Assistant Public Defenders and 15 Legal Assistants) to implement the changes in this proposal. SPD assumes a total cost of approximately \$1.3 million per year for these FTE to the General Revenue Fund.

Officials from the **Department of Corrections (DOC)** state this bill has a revision to the lifetime supervision statutes for sex offenders that make lifetime supervision a penalty when an offender has a listed sex offense and a prior sex offense. An unintended wording change in 2006 made lifetime supervision a condition for all offenders convicted of Rape 1st, Sodomy 1st, Statutory Rape 1st and Statutory Sodomy 1st. In the long term this will have a significant impact on reducing the number of offenders on lifetime supervision.

This revised criminal statutes re-introduces the five felony classes and increases the felony class for drug possession from the new E to the new D (Class D to Class C on the old felony class). Overall, the bill will increase the prison population.

RAS:LR:OD

ASSUMPTION (continued)

Because some offenses have lower sentences and other offenses have higher sentences, the impact of the bill will change over time. In the first two years the population is estimated to increase by approximately 200 because of more severe sentences for assault 3rd and domestic assault 3rd (offenders who would have received probation). In the following five years there will be a net reduction of 194 offenders because of shorter sentences for drug and stealing offenses. From the seventh year the population is expected to begin to increase because of the longer terms served by DWI habitual offenders and offenders convicted of child molestation 1st and 2nd degree. After 10 years the population is estimated to be higher by 89.

The changes in include:

- The removal of the reduction of the felony class for Robbery 2nd from a Class B to the new Class C. Impact was a reduction of 149.
- A new enhancement to Endangering the welfare of a child from a Class C to an enhanced Class C (from 3 to 10 years). Impact is an increase of 18.
- The bill also does not include an exclusion of all 559.115 and 217.762 probation releases that was in the version 3 assessment. 558.019 RSMo excludes only the first probation release as in the current statutes. Impact was a reduction of 72.
- Child Molestation 2nd degree becomes a dangerous felony. The new Child Molestation 2nd will be largely the existing Child Molestation 1st because the bill proposes a new Class A Child Molestation 1st degree which has a no parole stipulation. Currently offenders serve 70% for Child Molestation so the increase is not large and the impact will not occur until the sixth or seventh year after enactment. Impact is an increase of 69.
- The enactment of the bill has been put back to January 1, 2017.

Projected Impact on the Prison Population

Although the DOC has made some preliminary projections on the impact of this bill below, the actual impact is dependent on the implementation of the statute changes by the courts and prosecutors.

Fiscal Year	Number
2017	142
2018	201
2019	(183)
2020	(194)
2021	(99)
2022	(35)
2023	68
2024	68

ASSUMPTION (continued)

The DOC cannot predict the exact number of changes in population which may result from the modification of the offense(s) outlined in this proposal. An increase or decrease in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to or released from the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase/decrease in direct offender cost either through incarceration (FY13 average of \$18.014 per offender, per day, or an annual amount of \$6,575 per inmate) or through supervision provided by the Board of Probation and Parole (FY13 average of \$5.07 per offender, per day or an annual amount of \$1,851 per offender).

In summary, the exact fiscal impact is unknown for the DOC beginning in FY2017.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state this bill revises and changes the laws regarding the Missouri criminal code. This would greatly affect the Criminal Justice Information Services (CJIS) Division as well as all agencies that report criminal history information based on violations of the Missouri Criminal Code. Since this information is reported utilizing the associated Missouri Criminal Charge Code, the current Missouri Charge Code system by which charge codes are created and maintained will have to be rewritten. In addition, changes to the criminal history reporting system will need to occur with this rewrite. While the Missouri Criminal Charge Code system is in the initial stages of the rewrite, passage of this bill would greatly expedite the need for this change.

As the Criminal History Record System impacts all criminal justice agencies in Missouri, implementation of the changes to the Missouri Criminal Charge Code system would be a concerted effort between all of the criminal justice agencies in Missouri, with a special emphasis on the Highway Patrol's CJIS Division and the Office of State Courts Administrators (OSCA), as these are the entities responsible for production and distribution of the Missouri Criminal Charge Codes.

The current criminal charge code system is maintained by a Criminal History Specialist within the CJIS Division. The Criminal History Specialist is responsible for updating the Missouri Charge Code System, preparation of reports, and maintaining statistical data as well as coordinating updates to all necessary state and local criminal justice agencies in the state. One temporary employee will be needed to assist with the implementation of the changes to the charge code system. The current salary for a temporary employee is \$9.45 per hour at 1,000 hours for an annual cost of \$9,450.

ASSUMPTION (continued)

Approximately 280 Livescan fingerprint devices used throughout the state would have to be updated with the new charge code scheme and the Integration Module (IM) and the Fingerprint Data Router (FDR) for the state Automated Fingerprint Identification System (AFIS). The estimated cost for the Livescan and AFIS modifications has been determined by MorphoTrack, the state AFIS vendor, to be approximately \$50,000.

In addition to the Livescan and AFIS enhancements, the state's Computerized Criminal History (CCH) system will require updates as well. The estimated changes to the CCH system by the state's CCH Vendor, Computer Projects of Illinois, include a total of 1,770 (150 + 240 + 300 + 300 + 300 + 210 + 180 + 90) hours of combined work @ \$100 per hour for a total price of \$177,000 (1,770 x \$100) based on the following projections:

- 150 hours - Discovery and Design
- 240 hours - Changes to the Uniform Charge Code Table application and database
- 300 hours - Other database changes to adjust for Charge Code changes
- 300 hours - Stored procedure code
- 300 hours - Forms - Messenger, CCH Client, UCT Editor, SOR, etc.
- 210 hours - Switch transaction changes
- 180 hours - Testing
- 90 hours - Project Management

In addition, modifications would need to be made to the following:

Niche/FATPOT (50 hours at \$70 per hour)	\$3,500
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The systems affected are components of commercial systems purchased by the Patrol and since the programming code is not available to the Patrol, all changes must be made by the vendor.

The MHP estimates that approximately 440 hours of in-house programming efforts would be needed to modify the DWITS database, DWITS interfaces, MULES/4 DNA Profiling Interface with BEAST, and various reports associated with these systems. For purposes of this fiscal note, the MHP believes this impact will be handled in-house and can be absorbed; therefore, the Highway Patrol anticipates no fiscal impact for these modifications. However, it is possible that multiple bills similar to this cost may be passed by the General Assembly in a given year and, collectively, those costs maybe in excess of what can be sustained within our core budget. If so, the Patrol may request funding for the costs of supporting these bills should the need arise based on a review of the finally approved bills signed by the Governor.

ASSUMPTION (continued)

Even though this projects a cost to Highway funds (of \$239,950: \$9,450 + \$177,000 + \$50,000 + \$3,500), the Patrol is pursuing a grant to potentially fund the cost of this project.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal could be absorbed with existing resources.

In response to a previous version of the proposal, according to officials from the **Office of the Secretary of State (SOS)**, 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, we also recognize 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 our office can sustain with our core budget. Therefore, we reserve 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.

Officials from the **Department of Elementary and Secondary Education, Department of Revenue, Joint Committee on Administrative Rules, Office of Prosecution Services, the Department of Natural Resources, the Administrative Hearing Commission, the Office of the State Auditor, the Department of Agriculture, the Missouri Department of Conservation, the Department of Insurance, Financial Institutions and Professional Registration, the Department of Mental Health, the Department of Economic Development, the Department of Labor and Industrial Relations, Department of Health and Senior Services, and the Department of Social Services** each assume the proposal would not fiscally impact their respective agencies.

In response to a previous version of this proposal, officials from the **Missouri Gaming Commission, the Department of Transportation and the Missouri Ethics Commission** each assumed the proposal would not fiscally impact their respective agencies..

ASSUMPTION (continued)

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<u>FISCAL IMPACT - State Government</u>	FY 2015	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015	FY 2016	FY 2017
	<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 bill changes the laws regarding the criminal code.

This proposal is effective January 1, 2017.

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
Attorney General's Office
Department of Social Services
Office of the State Auditor
Department of Economic Development
Department of Public Safety
Department of Labor and Industrial Relations
Department of Health and Senior Services
Administrative Hearing Commission
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Joint Committee on Administrative Rules
Missouri Gaming Commission
Department of Elementary and Secondary Education
Department of Agriculture
Missouri Department of Conservation
Office of Prosecution Services
Department of Revenue
Department of Transportation
Office of the Secretary of State
Department of Natural Resources
Department of Corrections



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