

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4323-05
Bill No.: Perfected SS #2 for SCS for SB 590
Subject: Alcohol; Courts; Crimes and Punishment; Criminal Procedure
Type: Original
Date: April 19, 2016

Bill Summary: This proposal modifies provisions related to crime.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
General Revenue	(\$1,450,527 to Unknown)	(\$1,727,273 to Unknown)	(\$1,783,350 to Unknown)	(\$1,999,598 to Unknown)
Total Estimated Net Effect on General Revenue	(\$1,450,527 to Unknown)	(\$1,727,273 to Unknown)	(\$1,783,350 to Unknown)	(\$1,999,598 to Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
Intervention and Compliance Unit Pilot Program*	\$0	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

*Distribution increases (decreases) net to zero.

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 25 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
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 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
General Revenue	2 FTE	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE	2 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
Local Government*	\$0	\$0	\$0	\$0

*Distribution increases (decreases) net to zero.

FISCAL ANALYSIS

ASSUMPTION

In response to a previous version, officials at the **Department of Corrections** assumed from section 565.033 that any person who has been found guilty of murder in the first degree, and who was sixteen years of age or older and under the age of eighteen at the time of the commission of the offense, and who was sentenced to life without eligibility for probation or parole, or release except by act of the governor prior to June 25, 2012, shall be eligible for a parole hearing after having served 50 years. Subsection 3 (2) states any person who has been found guilty of murder in the first degree, and who was under the age of sixteen at the time of the commission of the offense, and who was sentenced to life without eligibility for probation or parole, or release except by act of the governor prior to June 25, 2012, shall be eligible for a parole hearing after having served thirty-five years.

It is assumed that resentencing will occur as the US Supreme Court has ruled that sentencing offenders who were under 18 to life without parole is cruel and inhumane punishment.

There are currently incarcerated 91 offenders convicted of Murder 1st degree who were less than 18 at the time of the offense, of whom 17 were under 16 at the time of the offense. There is one offender who will be eligible for release in FY21 and by the end of the 10 year budget forecast there will be 5 offenders eligible for release. Although the bill does not mandate a release after serving the minimum prison term the Board of Probation and Parole does normally release dangerous felons after serving the 85% and it is projected that the offenders will be released after the minimum prison term is served.

Reduction in prison population and increase in parole

	FY 17	FY 18	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26
Releases					1			1	1	2
Cumulative population reduction					-1	-1	-1	-2	-3	-5
Parole					1	1	1	2	3	5

The second section with impact is 565.225. There were 35 offenders received for the class D felony of aggravated stalking in FY14. Twenty-two were probation cases, three were 120 day admissions and ten served a term sentence averaging 24 months. There were no new admissions for the class C felony of aggravated stalking (previous) in FY14, to include term sentences or probation cases. Broadening the definition of this statute may lead to more convictions. The majority can still expect to receive probation for these violations.

ASSUMPTION (continued)

The addition to the offense of aggravated stalking is expected to add one offender sentenced to prison and two offenders sentenced to probation. The offender in prison will serve two years and then two years on parole. The offenders sentenced to probation will serve four years. The impact is estimated to be an increase of two in the prison population and ten on the probation and parole population. The total increase will occur will occur in four years.

Impact of amendment to Aggravated Stalking (565.225)

	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26
<i>Received</i>										
Prison	1	1	1	1	1	1	1	1	1	1
Probation	2	2	2	2	2	2	2	2	2	2
<i>Population</i>										
Prison	1	2	2	2	2	2	2	2	2	2
Probation	2	4	6	8	8	8	8	8	8	8
Parole			1	2	2	2	2	2	2	2
Total field	2	4	7	10	10	10	10	10	10	10

The third section with impact is 570.030. This section proposes to repeal and replace sections 570.030 RSMo to include provisions relating to the physical taking or attempted physical taking of property owned or in the custody of a financial institution. Modified language defines "financial institution" in section 570.030 and includes an addition of a class B felony for cases where "property appropriated or attempted to be appropriated is owned by or in the custody of a financial institution and the property is taken or attempted to be taken physically from an individual person to deprive the owner or custodian of the property". The addition of financial institutions to this section only addresses the particular owner/custodian of the property with no further specification of the offense or value limit beyond what is already addressed in the statute.

Estimated impacts based on comparable offenses are below, but the summarized impact on DOC is a total estimated increase of 7.5 incarcerations by FY19 and 42 offenders on field supervision by FY24.

ASSUMPTION (continued)

Estimated impact on Dept. of Corrections

	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26
Admissions	0	2.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5
Parole	0	0	0	5	10	15	20	25	25	25
Probation	0	0	0	0	8.5	17	17	17	17	17
Impact										
Prison Population	0	2.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5	7.5
Field Population	0	0	0	5	18.5	32	37	42	42	42

Analysis of section 570.030

In cases already classified as a class B felony because of monetary limit, subsequent offenses or certain conditions, there would be no change if this bill is enacted as those cases will already fall under class B felony provisions. However, since changes to this bill cover property in general with no monetary limit, we can assume that some percentage of current class C felonies would become newly charged as class B felonies solely on the basis that the property was in ownership/custody of a financial institution.

There is no way to determine how many current admissions for stealing offenses involved property in ownership/custody of a financial institution. In FY15, data indicates 464 new term admissions and 1724 new probations for class C felony stealing offenses under section 570.030. A minimum estimate for those that would be diverted to class B felonies is perhaps 1% since this bill represents specific criteria. This would result in 5 court commitments and 17 probations receiving increased sentences when charged with a class B felony instead of class C. An increase in the population will occur after the offenders serve the time they would have served for the original class C stealing offense.

Review of other charges associated with section 570.030 provides insight on what may be expected for time under DOC supervision. Data from FY15 indicates that for each offender diverted, sentence length would increase by 2.5 years, time served by 18.5 months, time on parole by 1 year and probation terms by 0.5 years (Table 1).

ASSUMPTION (continued)

Table 1. Estimated number of offenders diverted, sentences under current class C felony stealing, class C diverted to class B, and amount of change.

Charges/Criteria		Incarceration Probation	
Est. # offenders		5	17
Current	Avg. Sentence/ Term (Yr)	5.3	4.5
	Avg. Time Served (Mo)	18.5	-
	Avg. Parole (Yrs)	3.8	-
Diverted	Avg. Sentence/ Term (Yr)	7.8	5.0
	Avg. Time Served (Mo)	37.0	-
	Avg. Parole (Yrs)	4.7	-
Change	Avg. Sentence/ Term (Yr)	2.5	0.5
	Avg. Time Served (Mo)	18.5	-
	Avg. Parole (Yrs)	1.0	-

The additional time after time that would have been served anyway delays the increase in incarcerations to a partial increase in FY18, and full increase by FY19. Due to the longer sentence, offenders would not be on parole as early and would also have longer parole time. This increase will begin to occur in year 4 after the estimated 5 incarcerations have served the average 37 months. Probation will begin to increase in year 5 since the original class C average probation term was already 4.5 years.

The fourth section with impact is 217.722. This section does not require the issuance of warrants but instead requires the Division of Probation and Parole to immediately notify the prosecuting or circuit attorney if there is cause to believe that a person on probation has violated a condition of probation. It does not require the issuance of a warrant but, with the additional notification, could result in increased revocations of probationers.

It is difficult to estimate the actual number of additional probation revocations that may occur as a result of this legislation. However, in FY15 there were 8,124 probationers revoked to serve a term or 120-day sentence. If there were an increase of one percent (estimated) in the number of offenders being revoked due to this legislation, the Department of Corrections estimates that there will be at least 81 additional offenders sentenced to incarceration in year 1 and up to 101 offenders sentenced to incarceration in year 2 and beyond. The average length of incarceration is 15 months. Full implementation of this legislation will occur in year 2.

ASSUMPTION (continued)

The DOC assumes there would be some additional staff costs related to implementing the notification process and for providing additional violation reports if required for revocation. There could also be increased costs based upon the type of sentence as the DOC could be responsible for reimbursing the counties for the cost of jail days incurred by offenders being processed based upon the issuance of a warrant. Also, with the increase in the number of DOC offenders in county jails, there could be a cost to the DOC to reimburse counties for the jail stay if the offenders were revoked and then incarcerated by the DOC. However, the DOC is unable to calculate the amount of these costs.

The DOC also assumes this could have a substantial impact on the courts and police authorities if a large number of offenders are in jail due to warrants issued due to this legislation.

Additional Incarcerations:

<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>	<u>FY22</u>	<u>FY23</u>	<u>FY24</u>	<u>FY25</u>	<u>FY26</u>
81	101	101	101	101	101	101	101	101	101

The fifth section with impact is 577.685. This section adds language that would exempt aliens permitted to enter the United States under federal law.

The bill creates the offense of illegal reentry if a person who has been deported under the provisions of 8 U.S.C. Section 1326 returns to the state of Missouri. The offense is a class E felony. The enforcement of immigration laws is a federal responsibility and US law may take precedence over a state statute. The department has no information on the number of deported persons who have returned to Missouri without valid immigration documents.

The department estimates that one person per year will return and will be sentenced to prison. The average sentence for a nonviolent class E offense is 3.5 years and the expected time served is 1.8 years. The offense is parole eligible and will serve 2.4 years on parole, unless the offender is detained by the US Citizenship and Immigration Services.

577.685 impact:

	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26
Prison	1	1.8	1.8	1.8	1.8	1.8	1.8	1.8	1.8	1.8
Field	0	1	2	2.4	2.4	2.4	2.4	2.4	2.4	2.4

ASSUMPTION (continued)

Net impact from all 5 sections:

	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26
Prison	83	107.3	112.3	112.3	111.3	111.3	111.3	110.3	109.3	107.3
Field	2	5	9	17.4	31.9	45.4	50.4	56.4	57.4	59.4

The FY15 average cost of supervision is \$6.04 per offender per day or an annual cost of \$2,205 per offender. The DOC cost of incarceration is \$16.809 per day or an annual cost of \$6,135 per offender.

In summary, the DOC assumes costs of (\$428,013 to Unknown) in FY 2017, (\$682,697 to Unknown) in FY 2018, and (\$943,242 to Unknown) in FY 2026 (fully implemented).

Officials at the **Department of Public Safety's Missouri Highway Patrol** assume the Crime Laboratory Division estimates that this proposal could potentially result in the collection of an additional 53,229 DNA samples, which is more than double the number of samples currently being processed annually. These calculations are based on the 2014 Missouri State Highway Patrol CJIS arrest statistics and the CLD 2014 arrestee offender sample intake. Current statutorily eligible arrestee samples received in 2014 were subtracted from the number of projected arrests from this proposal. This subtraction is believed to prevent duplication in sample count.

In 2009, the General Assembly passed HB 152 which expanded the DNA collection program to include persons arrested only for a felony under chapters 565, 566, and 569 RSMo. Currently, the Patrol is receiving approximately 50 percent of the predicted samples. To properly implement this proposal under the assumption that 50 percent or 26,615 (53,229/2) of the samples will be submitted each year, the Patrol laboratory would need one additional FTE and additional funding for collection kits, reagents, and consumables. FTE needs and cost calculations are based on the unit's present processing capacity and operational costs.

ASSUMPTION (continued)

1 Criminalist I (\$1,682.50 x 24) \$40,380

This FTE would assist in the receipt, acceptance, tracking and storage of all samples; data entry, maintain equipment and supplies; expungement process; sample preparation for analysis; provide training; and advise and support law enforcement agencies.

The cost estimate for offender DNA collection kits, consumables, and reagent for sample processing and analysis is \$804,305 (\$30.22 x 26,615).

Officials from the **Department of Public Safety (DPS)** state the legislation requires DPS to establish pilot program in the City of St. Louis that addresses the rising serious violent crime in neighborhoods located in that city.

This legislation also sets out goals of the pilot program, lists the minimum requirement of members of the intervention and compliance unit, creates the "Intervention and Compliance Unit Pilot Program Fund", and requires DPS to promulgate rules to implement the provisions of the legislation.

Due to the requirements set forth for the Department of Public Safety regarding this pilot program, DPS assumes the need for (1) FTE Program Specialist (at \$33,650 annually) to oversee and monitor this pilot program, including regular travel to St. Louis. DPS assumes a cost (including salary, fringe benefits, travel, and other expenses) of approximately \$55,250 annually for this additional FTE.

Oversight notes that DPS did not provide an estimate regarding the amount of appropriation needed to fund the ICU Pilot Program. Oversight will assume a cost of More than \$100,000 to the General Revenue Fund for implementation of the program.

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in cases.

ASSUMPTION (continued)

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any indigent clients faced with the enhanced penalties for knowingly allowing a minor to drink or possess alcohol or failing to stop a minor from drinking or possessing alcohol. These offenses escalates from an A Misdemeanor to an E Felony. Nor can SPD assume that existing staff will be able to provide representation to additional indigent persons charged with the new expanded definition of criminal trespass. This bill also creates the crime of illegal re-entry - a new Class E Felony.

While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials at the **Department of Mental Health**, the **Missouri Department of Transportation**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Office of the State Treasurer**, the **Department of Agriculture**, the **Department of Revenue**, the **Department of Social Services** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

In response to a previous version, officials at the **Department of Health and Senior Services**, the **Joint Committee on Administrative Rules** and the **Office of the State Courts Administrator** each assumed no fiscal impact to their respective agencies from this proposal.

In response to a previous version, officials from the **Office of the Secretary of State (SOS)** stated 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, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs

ASSUMPTION (continued)

may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves 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 at the **Callaway County Commission**, the **City of Kansas City**, the **City of Columbia**, the **Springfield Police Department** and the **St. Louis County Justice Services** each assume no fiscal impact to their respective entities from this proposal.

<u>FISCAL IMPACT - State</u>				Fully
<u>Government</u>	FY 2017			Implemented
	(10 Mo.)	FY 2018	FY 2019	(FY 2026)
GENERAL REVENUE FUND				
<u>Costs - DPS - Office of the Director</u>				
Personal Service	(\$33,650)	(\$40,784)	(\$41,192)	(\$44,163)
Fringe Benefits	(\$17,603)	(\$21,234)	(\$21,346)	(\$22,886)
Expense/Equipment				
	<u>(\$3,997)</u>	<u>(\$1,946)</u>	<u>(\$1,996)</u>	<u>(\$2,373)</u>
<u>Total Costs - DPS</u>	<u>(\$55,250)</u>	<u>(\$63,964)</u>	<u>(\$64,534)</u>	<u>(\$69,422)</u>
FTE Change - DPS	1 FTE	1 FTE	1 FTE	1 FTE
<u>Costs - DPS/MHP</u>				
Personal Service	(\$33,650)	(\$40,784)	(\$41,192)	(\$44,163)
Fringe Benefits	(\$3,360)	(\$35,523)	(\$35,878)	(\$38,466)
Expense/Equipment	<u>(\$804,305)</u>	<u>(\$804,305)</u>	<u>(\$804,305)</u>	<u>(\$804,305)</u>
<u>Total Costs - DPS</u>	<u>(\$867,264)</u>	<u>(\$880,612)</u>	<u>(\$881,375)</u>	<u>(\$886,934)</u>
FTE Change - DPS/MHP	1 FTE	1 FTE	1 FTE	1 FTE
<u>Transfer Out - to the Intervention and Compliance Unit Pilot Program Fund</u>	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Cost - DOC - incarceration/probations</u>	(\$428,013 to <u>Unknown</u>)	(\$682,697 to <u>Unknown</u>)	(\$737,441 to <u>Unknown</u>)	(\$943,242 to <u>Unknown</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE	(\$1,450,527 to Unknown)	(\$1,727,273 to Unknown)	(\$1,783,350 to Unknown)	(\$1,999,598 to Unknown)
Estimated Net FTE Change for the General Revenue Fund	2 FTE	2 FTE	2 FTE	2 FTE

<u>FISCAL IMPACT - State</u>				Fully
<u>Government</u> (continued)	FY 2017			Implemented
	(10 Mo.)	FY 2018	FY 2019	(FY 2026)

**INTERVENTION AND
COMPLIANCE UNIT
PILOT PROGRAM FUND**

<u>Transfer In</u> - from General Revenue	More than \$100,000	More than \$100,000	More than \$100,000	More than \$100,000
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<u>Costs</u> - DPS - Implementation of the ICU pilot program	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)	(More than <u>\$100,000</u>)
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**ESTIMATED NET
EFFECT TO THE
INTERVENTION AND
COMPLIANCE UNIT
PILOT PROGRAM FUND**

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local</u>				Fully
<u>Government</u>	FY 2017			Implemented
	(10 Mo.)	FY 2018	FY 2019	(FY 2026)

**LOCAL POLITICAL
SUBDIVISIONS**

<u>Revenue</u> - St. Louis City - proceeds form the state for the Intervention and Compliance Unit Pilot Program	Unknown	Unknown	Unknown	Unknown
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<u>Costs</u> - St. Louis City - to implement, with DPS, the ICU Pilot Program	(<u>Unknown</u>)	(<u>Unknown</u>)	(<u>Unknown</u>)	(<u>Unknown</u>)
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**ESTIMATED NET
EFFECT TO LOCAL
POLITICAL
SUBDIVISIONS**

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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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 crime.

FELONY CLASSIFICATIONS - 192.2260, 301.559, 339.100, 400.9-501, 571.020 - 571.072, 632.520, & Section B

During the 2014 session, the General Assembly passed a large-scale revision of the Missouri Criminal Code, which included the addition of a Class E felony and a modification of the terms of imprisonment for Class C, D, and E felonies. Under current law, the maximum term for a class C felony is seven years and the maximum term for a Class D felony is four years. Beginning January 1, 2017, when SB 491 (2014) takes effect, the term of imprisonment for a Class C felony will be three to 10 years, the maximum term for a Class D felony will be seven years, and the maximum term for a Class E felony will be four years. To reflect the change in the authorized terms of imprisonment, this act modifies several crimes once classified as Class C felonies to make them Class D felonies and crimes once classified as Class D felonies have become Class E felonies.

ELDER ABUSE REPORTING - 192.2405, 192.2410, 192.2475 & 565.188

Under current law, certain types of people must report to the Department of Health and Senior Services if the person has reasonable cause to suspect that a person 60 years of age or older or an eligible adult has been subject to abuse or neglect. This act provides that reports only need to be made if the victim is an eligible adult. The act further adds emergency medical technicians, firefighters, and first responder to the list of mandated reporters. A provision regarding an investigation of abuse by a in-home services client manager and local area agency on aging training is repealed.

FISCAL DESCRIPTION (continued)

REPORTING REQUIREMENTS IN LONG-TERM CARE FACILITIES - 198.070

This act amends the provision relating to reporting of suspected abuse and neglect of a resident of a long-term care facility who is sixty years of age or older or an eligible adult. Current law requires a report to be made to the Department of Health and Senior Services in the event of suspected abuse and neglect. Under this act, in the event of a suspected sexual assault of the resident, specified mandated reporters shall also report to local law enforcement under the procedures of the federal Elder Justice Act of 2009.

MIRANDA WARNINGS TO JUVENILE OFFENDERS - 211.059

When a child is taken into custody, current law requires law enforcement officials to advise the child prior to questioning that the child has the right to remain silent, that any statement made can be used in court, has the right to have a parent present, and has the right to an attorney. This act provides that any court recognized exception to the giving of Miranda warnings to an adult prior to interrogation shall also apply to this requirement that a child be given such advise.

JUVENILE SHACKLING - 211.436

This act provides that, when a juvenile court has a rule or otherwise requires the use of restraints during proceedings, the juvenile's attorney must have the right to be heard on a request that the restraints not be used. If the court orders the use of restraints, the court must make findings of fact in support of the use of restraints.

SHACKLING OF PREGNANT WOMEN - 217.151

This act prohibits the use of restraints on offenders during the second and third trimesters of pregnancy and for 48 hours after delivery unless a doctor treating the pregnant or post-partum offender has determined that extraordinary circumstances exist. This act defines "extraordinary circumstances." Under this act, pregnant and postpartum offenders must be transported in cars with seatbelts. If restraints are used, they must be the least restrictive available. Leg or waist restraints may not be used on pregnant or postpartum offenders and restraints must not be used if a health care provider treating the offender requests that restraints not be used.

FISCAL DESCRIPTION (continued)

Whenever a doctor determines extraordinary circumstances exist and restraints are used, the doctor must fully document certain information in writing within 7 days of the incident. This act requires the Sentencing and Corrections Oversight Commission and the advisory committee on women's programs to conduct biannual reviews of the written reports. The Department of Corrections must keep the reports on file for five years. This act requires the head of each prison to provide training to prison employees on the requirements of this act and inform female offenders of the prison's policies and practices regarding the use of restraints on pregnant and postpartum inmates.

Certain sections of this act have a delayed effective date of January 1, 2018.

TWO-WAY TELECOMMUNICATIONS DEVICES IN PRISONS AND JAILS - 217.360 & 221.111

Under current law, it is a crime to possess, deliver, deposit, or conceal certain items in a prison or jail. This act adds two-way telecommunications devices and their component parts to the list of prohibited items. This act provides that the prohibition on telecommunications devices does not apply to law enforcement officers lawfully engaged in their duties or any person who is authorized to use such a device in the facility.

PROBATION AND PAROLE - 217.670, 217.690, & 217.722

This act removes the statutory provision allowing an offender to object to the use of videoconferencing at probation and parole hearings, and requires the Board of Probation and Parole to conduct an interview, rather than a personal interview, of the offender before ordering parole. This act requires a probation officer who has probable cause to believe a probationer has violated a condition of probation to notify the prosecuting or circuit attorney.

FISCAL DESCRIPTION (continued)

FAILURE TO YIELD - 304.351

Currently, a person who causes physical injury or death to another person by failing to yield the right-of-way is subject to additional monetary penalties and driver's license suspensions. This act makes those penalties discretionary rather than mandatory. Under this act, the maximum penalty for a person who causes physical injury to a person by failing to yield the right-of-way is increased from \$200 to \$500. In the case of serious physical injury this act increases the maximum penalty from \$500 to \$1,000. This act increases the maximum penalty for a person who causes the death of another person by failing to yield the right-of-way from \$1,000 to \$2,500. In addition, the person who causes a fatality by failing to yield the right-of-way may be required to successfully complete a driver-improvement program.

MINORS AND ALCOHOL - 311.310 & SECTION B

Under current law, it is a Class B misdemeanor for a property owner to knowingly allow a person under the age of 21 to drink or possess intoxicating liquor or fail to stop a minor from drinking or possessing liquor. This act makes the offense a Class A misdemeanor. Any subsequent violation is a Class E felony. This provision takes effect January 1, 2017.

ELECTRONIC MONITORING WITH VICTIM NOTIFICATION - 455.095

This act provides that a court may place a person on electronic monitoring with victim notification if the person is charged with, or has been found guilty of, violating an order of protection. Electronic monitoring with victim notification is defined as a monitoring system that can monitor the movement of a person and immediately transmit the person's location to the victim and local law enforcement when the person enters a certain area. The court only may place a person on electronic monitoring with victim notification if the protected person has provided his or her informed consent. The phrase "informed consent" is defined under the act.

FISCAL DESCRIPTION (continued)

The person being monitored must pay the costs associated with the monitoring unless he or she is determined by the court to be indigent. If determined to be indigent, the court clerk must notify the Department of Corrections and send a bill for the monitoring costs to the department. The department must establish a procedure to determine the portion of costs the indigent person is able to pay and must seek reimbursement of such costs. This act gives the Department of Corrections rulemaking authority for this provision. Under this act, an alert is probable cause to arrest the monitored person for a violation of a protective order. This act requires the Department of Corrections, Department of Public Safety, Missouri State Highway Patrol, circuit courts, and local law enforcement agencies to share information obtained via the electronic monitoring. This act provides immunity from liability to suppliers of the electronic monitoring system for certain injuries associated with the use of the system. These provisions expire August 28, 2022.

PROSECUTION OF STEALING-RELATED OFFENSES - 541.033

Under current law, crimes are prosecuted in the county in which they occurred or any element of the offense occurred. Identity theft can also be prosecuted in the county in which the victim resides or the property obtained, or attempted to be obtained, was located. This act provides that any offense of Chapter 570, which includes robbery, stealing, and other similar offenses, may also be prosecuted in the county in which the victim resides or conducts business or the property obtained, or attempted to be obtained, was located.

FELONY CLASSIFICATIONS FOR OFFENSES OUTSIDE THE CODE - 557.021

Currently, for offenses outside the criminal code, if the felony is for a maximum term of imprisonment of less than ten years, it shall be considered a Class D felony and if the maximum term is four years, it shall be considered a Class E felony. This act provides that to be considered a Class D felony, the maximum term shall exceed four years but be less than years and maximum term to be considered a Class E felony shall four years or less.

FISCAL DESCRIPTION (continued)

OFFENSE OF CONSPIRACY - 562.014

This act modifies the offense of conspiracy by providing that if a person conspires to commit a number of offenses, such person can be found guilty of only one offense of conspiracy if the multiple offenses are the object of the same agreement.

FIRST DEGREE MURDER - 565.030 - 565.040, SECTIONS B & C

Under current law, offenders who were under the age of 18 at the time they committed first degree murder must be sentenced to life imprisonment without eligibility for probation, parole, or conditional release. In June 2012, the U.S. Supreme Court in *Miller v. Alabama* held that mandatory life sentences without parole for juvenile criminal offenders are unconstitutional. As a result, there is no punishment for first degree murder under current law in Missouri that is enforceable against those who committed murder before they turned 18.

This act repeals the mandatory life sentence found to be unconstitutional in *Miller v. Alabama*. Under this act, a person who was 16 or 17 years old at the time of the crime may be sentenced to either imprisonment for at least 50 years or life imprisonment without parole. A person who was under the age of 16 may be sentenced to imprisonment for at least 35 years or life without parole. A person who was sentenced to life imprisonment without parole prior to June 25, 2012, is eligible for a parole hearing after serving 50 years if the person was 16 or 17 years old at the time of the offense or after serving 35 years if the person was under the age of 16 at the time of the offense. This act repeals obsolete provisions stating that certain trials are to proceed in a single stage. Other technical changes were made in this act to make the provisions align with amendments to the criminal code in SB 491 (2014). This act contains an emergency clause for the provisions regarding the penalty for first degree murder.

STALKING - 565.225

This act adds the act of knowingly accessing, or attempting to access, the address of a participant of the address confidentiality program administered by the Secretary of State to the elements of aggravated stalking.

FISCAL DESCRIPTION (continued)

Beginning in 2017, as a result of SB 491 (2014), aggravated stalking will be known as stalking in the first degree. This act also adds the act of knowingly accessing, or attempting to access, the address of a participant of the address confidentiality program to the elements of first degree stalking.

CRIMINAL NONSUPPORT - 568.040

This act removes a reference to the issue of good cause from a provision providing that the defendant has the burden of injecting certain issues.

SECOND DEGREE TAMPERING - 569.090

This act updates an intersectional reference to the stealing statute, which was reconfigured under the 2014 Criminal Code revision.

FIRST DEGREE TRESPASS - 569.140

Under current law, a person commits the Class B misdemeanor of first degree trespass by knowingly and unlawfully entering or remaining in another person's building or on another person's real property. This act adds knowingly and unlawfully entering or remaining on a temporary or permanent privately owned structure attached to another person's building or property to the list of actions that constitute first degree trespass. In order for the act to be first degree trespass, the attached structure must be fenced or otherwise enclosed or actual notice must be given to the trespasser in the form of actual communication or posting of the structure in a manner reasonably likely to come to the attention of the trespasser.

STEALING - 570.010 & 570.030

Under this act, it is a Class B felony to physically take or attempt to take property from a person when the property is owned by or in the custody of a financial institution. Physically taking property from a person is currently a Class D felony, unless the property is \$25,000 or more in which case it is a Class C felony. Financial institution is defined as a bank, trust company, savings and loan association, or credit union.

FISCAL DESCRIPTION (continued)

FRAUDULENT PROCUREMENT OF A CREDIT OR DEBIT DEVICE - 570.135

This act adds an element to the crime of fraudulent procurement of a credit or debit device. Under the new element, a person commits the Class A misdemeanor if he or she knowingly possesses a fraudulently obtained credit or debit device. Under current law, business entities must not be held liable for accepting fraudulent applications for credit or debt devices or using fraudulent credit or debit devices in transactions without clear and convincing evidence that the business conspired with the fraudulent procuring of the credit or debit devices. This act specifies that such entities must not be held criminally liable without such evidence.

INTOXICATION-RELATED BOATING AND TRAFFIC OFFENSES - 577.001, 577.011, & 577.037

This act provides that a person is an "aggravated boating offender" if he or she has been found guilty of two or more intoxication-related boating offenses committed on separate occasions when at least one of the incidents involved the defendant injuring or killing another person while operating a vessel while intoxicated. In addition, this act reinserts county and municipal ordinance violations of driving under the influence of alcohol or drugs into the definition of "intoxication-related traffic offense". Such municipal and county ordinance violations are included in the definition under current law, but not in the Revised Code.

The definition of "persistent offender" was also modified under the act to include a person who has been found guilty of one intoxication-related traffic offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed. Similar changes were made to the definition of "persistent boating offender". Under this act, a person who has been found guilty of driving while intoxicated must complete a victim impact program approved by the court. The person is responsible for any charges imposed by the program.

FISCAL DESCRIPTION (continued)

This act abrogates the holdings of *Stiers v. Dir. of Revenue*, No. SC4840 (Mo. Jan. 12, 2016) and *Stiers v. Dir. of Revenue*, ED 101407, 2015 WL 343310 (Mo.App. E.D. Jan. 27, 2015). This act requires admission of relevant chemical analysis of a person's breath in proceedings for any criminal offense or violations of county or municipal ordinances or license suspension or revocation proceedings arising out of acts occurring between December 30, 2012 and April 4, 2014, relating to the operation of a vehicle, vessel, or aircraft while in an intoxicated condition or with an excessive blood alcohol content so long as the evidence meets certain conditions outlined in the act. This act deems the provision to be a procedural rule and applicable to all proceedings in progress whether commenced before or after the enactment of the act. This provision contains an emergency clause and is identical to SB 1014 (2016).

CHEMICAL TEST EVIDENCE - 577.037

Under the Revised Code, if a chemical test demonstrates a blood alcohol content of less than .08, any criminal charge related to the operating of a vehicle, vessel, or aircraft while intoxicated or with excessive blood alcohol content must be dismissed unless certain other evidence exists. This act removes the reference to offenses of operating a vehicle, vessel, or aircraft with an excessive blood alcohol content from this provision, so it only applies to operating a vehicle, vessel, or aircraft while intoxicated.

OFFENSE OF LEAVING THE SCENE OF AN ACCIDENT - 577.060

This act provides that the offense of leaving the scene of an accident is a class E felony if the defendant has previously been found guilty of the same offense.

ILLEGAL REENTRY - 577.685

This act creates the crime of illegal reentry. An illegal alien commits the crime of illegal reentry if he or she has been removed from the United States under federal law for certain criminal convictions and is later found in Missouri unless the alien is otherwise permitted to enter the country under federal law. Illegal reentry is punishable as a Class E felony.

FISCAL DESCRIPTION (continued)

This act requires the person in charge of a facility in which an illegal alien is detained upon arrest for illegal reentry to transfer custody of the alien to U.S. Immigration and Customs Enforcement as soon as practicable. This provision takes effect January 1, 2017.

ANIMAL OR LIVESTOCK TRESPASS - 578.005 - 578.040

Currently, the crime of animal trespass is defined as a person having ownership of an animal who fails to provide adequate control of the animal for a period of 12 hours or more. Under this act, a person commits the offense of animal or livestock trespass by either failing to provide adequate control of any animal except livestock when the animal trespasses on another person's property or failing to provide adequate control of livestock for a period of 12 hours or more when the livestock trespasses on another person's property.

In addition, this act removes the maximum fines that may be charged for animal or livestock trespass, which potentially conflict with another provision of law setting the maximum fines for infractions and Class C misdemeanors. This act repeals a provision stating that reasonable costs for the care and maintenance of trespassing animals may not be waived.

LAW ENFORCEMENT DOGS - 578.007 & 578.022

Under current law, the killing of an animal that is not on its owner's property when the animal is injuring a person or farm animal is exempt from the animal abuse statute. The exemption specifies that it does not apply to police or guard dogs while working. This act replaces the reference to "police or guard dogs" with a reference to "law enforcement officer dog" and provides that the exemption does not include the killing or injuring of such dogs.

In addition, current law exempts law enforcement dogs that bite in the course of their official duties from certain criminal and civil liabilities. This act specifies that injuries caused by such dogs are also exempt from liability and adds a reference to the offense of animal abuse to the list of liabilities that do not apply to police dogs.

FISCAL DESCRIPTION (continued)

INTERVENTION AND COMPLIANCE UNIT PILOT PROGRAM - 589.800

This act requires the Department of Public Safety to establish the Intervention and Compliance Unit Pilot Program in St. Louis City with the purpose of reducing and preventing violent crime. The program shall develop policies and procedures to focus on early detection of violent criminal behavior, address crime recidivism, and collect and monitor crime data, as well as develop strategies for improving mental and social service programs which address needs for reducing violent crime. The program shall expire in six years after the effective date of this act unless reauthorized by the General Assembly.

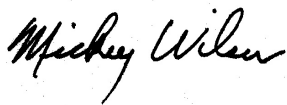
DNA COLLECTION FROM FELONY OFFENDERS - 650.055

Under current law, every individual who is 17 years old or older and is arrested for burglary, sex-related felonies, and certain felonies committed against a person must provide a biological sample for DNA profiling analysis. This act requires every individual who is 17 years old or older who is arrested for any felony offense to provide a biological sample for DNA profiling.

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

Department of Mental Health
Missouri Department of Transportation
Department of Insurance, Financial Institutions and Professional Registration
Office of the State Treasurer
Department of Agriculture
Department of Revenue
Department of Social Services
Office of Prosecution Services
Callaway County Commission
City of Kansas City
City of Columbia
Springfield Police Department
St. Louis County Justice Services
Office of the Attorney General
Office of the State Public Defender
Department of Public Safety
Missouri Highway Patrol
Office of the State Courts Administrator
Department of Health and Senior Services
Joint Committee on Administrative Rules



Mickey Wilson, CPA
Director
April 19, 2016

Ross Strobe
Assistant Director
April 19, 2016