

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5556-01
Bill No.: SB 931
Subject: Children and Minors; Crimes and Punishment; Courts; Criminal Procedure;
 Corrections Department; Probation and Parole; Prisons and Jails; Sexual Crimes
Type: #Updated
Date: February 22, 2016
 #Updated with agency responses

Bill Summary: This proposal modifies sentences and supervision provisions for offenders of sex crimes against children.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
#General Revenue	(\$538,300)	(\$1,317,758)	(\$2,960,833)	(\$5,502,469)
#Total Estimated Net Effect on General Revenue	(\$538,300)	(\$1,317,758)	(\$2,960,833)	(\$5,502,469)

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

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 8 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)
Total Estimated Net Effect on FTE	0	0	0	0

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

FISCAL ANALYSIS

ASSUMPTION

#Due to time constraints, **Oversight** prepared the fiscal note for the original bill without some agency responses, and reflected an Unknown cost to the Department of Corrections out of the General Revenue Fund. Oversight has since received responses from the impacted agencies and has incorporated their estimates into this fiscal note.

#Officials from the **Department of Corrections (DOC)** state the bill proposes four changes to statutes affecting offenders sentenced to sex offenses against children. The last two have significant impact upon the DOC.

1. The first incarceration under 217.362, RSMo, long term drug program or 559.115, RSMo, would count as a prior commitment if the current offense is sexual and the victim was less than 17 years old. The effect of the change would be to apply a minimum prison term to sex offenders who had a prior admission under the long term drug program or a 120 day program. While some sex offenders have prior admissions to the court stipulated long term drug or 120 day programs for non-sexual offenses there would be little change in the actual prison time served because sex offenders are required to complete the Missouri Sex Offender Program (MOSOP) before parole or conditional release. As the average time served for sex offenders is close to the conditional release date (67% of sentence or more), a 40% or 50% minimum prison term would not change the release date for sex offenders.

2. The bill will restrict the board of probation and parole or the courts from terminating the life time supervision of sex offenders who are 65 years or older and have a low risk assessment (217.735, RSMo, and 559.106, RSMo) if the offender has a sex offense against a victim less than 17. The DOC has at present no experience of applying a risk assessment to sex offenders on lifetime supervision but it does expect the number of offenders on life time supervision to increase significantly after the revised criminal code is enacted in January 2017 because the criteria for lifetime supervision has been expanded. The DOC has estimated that in ten years there will be 620 offenders on lifetime supervision for a sex offense against a victim aged less than 17 and 15% will be offenders 65 years or older.

ASSUMPTION (continued)

3. The bill will prohibit probation for offenders found guilty of a sex offense against a victim under 17 years old. The prohibition applies to all offenses in chapters 566, 568 and 573 when the offense was sexual in nature. The impact upon the prison population is the number offenders who will serve a prison sentence instead of probation multiplied by the years served in prison. Similarly the increase in the population on parole is the number of parole releases multiplied by the time on parole. The reduction in the probation caseload is the number of offenders who will not serve probation multiplied by the average probation term (five years).

#In FY15 the DOC received 194 offenders for probation for a sex offense against a child but the DOC estimates that 20% of the sex offenders sentenced to probation will be revoked and will serve a prison sentence without a change in the statute. The estimate of the number of offenders who would have successfully served probation is, therefore, 80% of the 194 probationers (155). The average prison sentence of the sex offenders for offenses against children is 7.7 years and, because of the requirement for sex offenders to complete the Missouri Sex Offender Program (MOSOP), the average time served is estimated to be 70% of the sentence (5.4 years).

#Many of the offenders who would be required to serve a prison sentence are convicted of class C felony sex offenses and approximately 45% of statutory rape 2nd degree, statutory sodomy 2nd degree and child molestation 1st degree (Class B) are sentenced to probation or the sex offender assessment unit in 559.115).

#Impact of prohibiting probation for sex offenses against victims under 17:

Offense	RSMo	Probation Openings	Less 20% Probation Revocations	Avg. Sentence (years)	Time Served (years)	Increase in prison population
Stat. Rape - 2nd degree	566.034	31	25	6.0	4.2	104
Stat. Sodomy - 2nd degree	566.064	13	10	6.2	4.3	45
Sexual abuse - 1st - less than 14	566.100	1	1	8.5	6.0	5
Sex misconduct. - less than 15	566.083	17	14	3.5	2.5	33
Sex misconduct. - 2nd offense	566.083	1	1	5.7	4.0	3
Child molestation - 1st degree	566.067	62	50	11.5	8.1	399
Poss. of child porn.-2nd offense	573.037	26	21	8.4	5.9	122
Poss. of child pornography	573.037	25	21	5.4	3.8	76
Endang. welfare of child (sexual contact)	568.045	18	14	5.2	3.6	52
TOTAL		194	155	7.7	5.4	840

ASSUMPTION (continued)

#The impact of the bill is expected to occur over eight years but will begin in the first year after enactment.

#Increase in prison population and decrease in supervised population:

	FY 17	FY 18	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26
Prison	155	310	466	607	679	751	800	840	840	840
Supervision	(155)	(310)	(465)	(586)	(649)	(527)	(526)	(526)	(456)	(416)

4. Adds the sex offenses against victims under 17 and listed in section 3 above to the list offenses that require an offender to be sentenced as a persistent sex offender or sex predator if there are prior sex offenses. The DOC has 131 offenders currently incarcerated as persistent sex offender or sex predator and they are required to serve a minimum of thirty years. If all sex offenses against children were added then the DOC estimates that the number of offenders serving sentences of 30 years or more would increase by 60 offenders in the next ten years. The DOC is incarcerating 3,674 offenders for the offenses that currently count for persistent sex offender or sex predator and there are 1,526 offenders incarcerated for sex offenses against children that are not included in the current definition (which will be an increase of 40%). In the last three years the average number of offenders sentenced as persistent or predator sex offender has been 15 and if the number increases by 40% the annual increase in new convictions is six who will serve at least 30 years.

#Increase in prison population from increasing the number of offenders sentenced as persistent or predatory sex offender:

	FY 17	FY 18	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26
Prison	6	12	18	24	30	36	42	48	54	60

#The total impact of the bill is an increase in the prison population of 900 offenders and a reduction of 416 probationers/parolees in year 10.

ASSUMPTION (continued)

#The FY16 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

	# to prison	Cost per year	Total Cost - Prison	# to probation	Cost per year	Total Cost - probation	Grand total prison and probation
Year 1	161	(\$6,135)	(\$987,735)	(155)	(\$2,205)	\$341,775	(\$538,300)
Year 2	322	(\$6,135)	(\$1,975,470)	(310)	(\$2,205)	\$683,550	(\$1,317,758)
Year 3	484	(\$6,135)	(\$3,871,185)	(465)	(\$2,205)	\$1,025,325	(\$2,960,833)
Year 4	631	(\$6,135)	(\$4,349,715)	(586)	(\$2,205)	\$1,292,130	(\$3,244,734)
Year 5	709	(\$6,135)	(\$4,828,245)	(649)	(\$2,205)	\$1,431,045	(\$3,677,239)
Year 6	787	(\$6,135)	(\$4,828,245)	(527)	(\$2,205)	\$1,162,035	(\$4,047,792)
Year 7	842	(\$6,135)	(\$5,165,670)	(526)	(\$2,205)	\$1,159,830	(\$4,511,226)
Year 8	888	(\$6,135)	(\$5,447,880)	(526)	(\$2,205)	\$1,159,830	(\$4,925,622)
Year 9	894	(\$6,135)	(\$5,484,690)	(456)	(\$2,205)	\$1,005,480	(\$5,248,108)
Year 10	900	(\$6,135)	(\$5,521,500)	(416)	(\$2,205)	\$917,280	(\$5,502,469)

#Officials from the **Department of Mental Health**, the **Office of the State Courts Administrator**, the **Office of the State Public Defender** and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

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

<u>FISCAL IMPACT - State Government</u>	FY 2017 (6 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2026)
GENERAL REVENUE				
#Costs - DOC - additional incarceration of offenders	<u>(\$538,300)</u>	<u>(\$1,317,758)</u>	<u>(\$2,960,833)</u>	<u>(\$5,502,469)</u>
#ESTIMATED NET EFFECT TO GENERAL REVENUE	<u>(\$538,300)</u>	<u>(\$1,317,758)</u>	<u>(\$2,960,833)</u>	<u>(\$5,502,469)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (6 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2026)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

Under current law, incarceration in a Department of Corrections' 120-day program is not considered a prior prison commitment for purposes of a statute requiring extended prison terms for repeat offenders. This act provides that incarceration in a 120-day program is to be considered a prior prison commitment if the offender was in the program as a result of being found guilty of a sexual offense against a child under the age of 17.

Current law provides that offenders found guilty of certain sex offenses must be supervised for life, except the Board of Probation and Parole or the court may terminate the lifetime supervision of an offender who is 65 years old or older. This act provides that the lifetime supervision of offenders who committed their offense against a child under the age of 17 may not be terminated under this provision.

FISCAL DESCRIPTION (continued)

This act prohibits the granting of probation, and the issuance of a suspended imposition of sentence or a suspended execution of sentence, to an offender found guilty of a sex offense against a child under the age of 17.

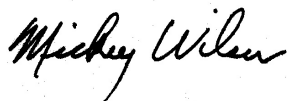
Under this act, offenders who previously have been found guilty of sex offenses against children under the age of 17 are added to the definitions of "persistent sexual offender" and "predatory sexual offenders". This act specifies the minimum prison terms for those who are considered "predatory sexual offenders" as a result of being found guilty of sex crimes against children under the age of 17.

The provisions of this act take effect 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

#Department of Corrections
#Department of Mental Health
#Attorney General's Office
Office of Prosecution Services
Office of the State Public Defender
#Office of the State Courts Administrator



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February 22, 2016

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