

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0089-01  
Bill No.: SB 34  
Subject: Crimes and Punishment; Immigration  
Type: Original  
Date: December 16, 2016

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Bill Summary: This proposal creates the crime of illegal reentry.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
General Revenue	(\$14,713)	(\$60,027)	(\$90,639)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$14,713)</b>	<b>(\$60,027)</b>	<b>(\$90,639)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<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 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</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 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Corrections (DOC)** state the bill creates the offense of illegal reentry if a person who has been deported under the provisions of 8 U.S.C. Section 1326b returns to the state of Missouri. The new offense would be a class C felony (new criminal code D). The enforcement of immigration laws is a federal responsibility and US law may take precedence over a state statute. DOC has no information on the number of deported persons who have returned to Missouri without valid immigration documents.

The department estimates three people will be sentenced to prison and five to probation. The average sentence for a nonviolent Class C (new D) offense is 4.8 years of which, 2.9 years will be served in prison while the remaining 1.9 years will be on parole and probation sentences will be 3 years. The cumulative impact on DOC is 8.7 additional offenders in prison and 20.7 on field supervision by FY 2021. The offense is parole eligible and will serve 1.9 years on parole, unless the offender is detained by the US Citizenship and Immigration Services.

If this impact statement has changed from statements submitted in previous years, it is because DOC's Budget and Research Section reviewed the way responses had been submitted and has developed a more precise way to calculate the impact. In previous year's responses, the full impact of recidivism for parole releases was not adequately calculated. Now we have been able to quantify the fact that some parolees are returned to prison after release and that has been added into the calculation of the impact. The total number of offenders has not changed but there is an assumption that they will spend more time back in prison rather than being on community supervision, which will increase the amount of the impacts.

The FY16 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

In summary, DOC assumes cost of \$24,521 in FY 2018 (3 offenders in prison and 5 on probation), \$60,027 in FY 2019 (6 offenders in prison and 10 on probation), and \$90,639 in FY 2020 (3 offenders in prison and 15 on probation). Long term forecasts from DOC project 8.7 persons in prison with 20.7 persons on probation/parole.

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of illegal reentry, a new Class B felony.

ASSUMPTION (continued)

While the number of new cases (or cases with increased penalties) 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 in all cases where the right to counsel attaches.

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

Officials from the **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 **Office of Prosecution Services (OPS)** assume the proposal would not have a measurable fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs which are difficult to determine.

Officials from the **Boone County Sheriff's Department, St. Louis County Justice Services,** and the **Cole County Sheriff's Department** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (6 Mo.)	FY 2019	FY 2020
<b>GENERAL REVENUE</b>			
<u>Costs - DOC - incarceration and/or supervision of offenders of illegal reentry</u>	<u>(\$14,713)</u>	<u>(\$60,027)</u>	<u>(\$90,639)</u>
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b><u>(\$14,713)</u></b>	<b><u>(\$60,027)</u></b>	<b><u>(\$90,639)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (6 Mo.)	FY 2019	FY 2020
	<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 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 due to the violation of certain federal crimes and thereafter enters the state of Missouri and commits the offense of misdemeanor assault or domestic assault, any felony offense, or any crime committed in another state that would be considered an offense of misdemeanor assault or domestic assault, any felony offense under Missouri law. Moreover, any person in charge of a facility in which an illegal alien is detained upon arrest for illegal reentry shall transfer such illegal alien to the U.S. Immigration and Customs Enforcement as soon as practicable.

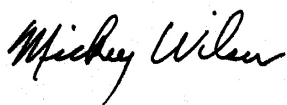
Illegal reentry is punishable as a Class C felony.

This proposal has an effective date of January 1, 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

Department of Public Safety  
Office of the State Courts Administrator  
Department of Corrections  
Office of Prosecution Services  
Office of the State Public Defender  
Boone County Sheriff's Department  
St. Louis County Justice Services  
Cole County Sheriff's Department



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