

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0089-04
Bill No.: HCS for SS for SB 34
Subject: Crimes and Punishment; Immigration
Type: Original
Date: April 24, 2017

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$36,524)	(\$89,411)	(\$135,597)
Total Estimated Net Effect on General Revenue	(\$36,524)	(\$89,411)	(\$135,597)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>Other</u> State Funds	\$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 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on FTE	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 2018	FY 2019	FY 2020
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state only two sections in FN 0089-04N are projected to have fiscal impact to the Department of Corrections-Sections 577.685 and 565.076. These impacts are the same as those found in FN 0089-01N and FN 2034-01N, respectively.

Section 577.685 - version 1 of this bill created 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. The department has no information on the number of deported persons who have returned to Missouri without valid immigration documents.

DOC 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.

New Class C (D) Nonviolent Offense

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions & probation										
Admissions	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Releases to parole			0.3	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Probation	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Prison and Field Population (admissions * length of stay)										
Admissions	3.0	6.0	8.7	8.7	8.7	8.7	8.7	8.7	8.7	8.7
Parole			0.3	3.3	5.7	5.7	5.7	5.7	5.7	5.7
Probation	5.0	10.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0
Impact										
Total prison population	3.0	6.0	8.7	8.7	8.7	8.7	8.7	8.7	8.7	8.7
Field Population	5.0	10.0	15.3	18.3	20.7	20.7	20.7	20.7	20.7	20.7
	8.0	16.0	24.0	27.0	29.4	29.4	29.4	29.4	29.4	29.4

Section 565.076 Version 4 changes the language regarding domestic assault to include, "any violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, two or more times, would be a violation of this

ASSUMPTION (continued)

section in which case it is a Class E Felony..." This would allow for violations from other states to be included as a determinant for someone being charged as a "prior or persistent" offender under an E Felony. This is expected to create a new violent offense. The maximum impact for this section only for both prison admissions and field would be 6 each (a total of 12) by FY 2021.

	<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>	<u>FY27</u>
New										
Admissions	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Parole				2.0	2.0	2.0	2.0	2.0	2.0	2.0
Probation	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Culmulative Populations										
Prison	2.0	4.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
Parole				2.0	2.0	2.0	2.0	2.0	2.0	2.0
Probation	1.0	2.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Impact										
Prison	2.0	4.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
Field	1.0	2.0	3.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
Population Change	3.0	6.0	9.0	12.0	12.0	12.0	12.0	12.0	12.0	12.0

Total Impact of FN 0089-04N

	<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>	<u>FY27</u>
Total Impact										
Prison	5	10	14.7	14.7	14.7	14.7	14.7	14.7	14.7	14.7
Field	6	12	18.3	24.3	26.7	26.7	26.7	26.7	26.7	26.7
Population Change	11	22	33	39	41.4	41.4	41.4	41.4	41.4	41.4

As shown above, the maximum impact for prison admissions will occur in FY20 while the maximum impact for the field will be felt in FY22.

ASSUMPTION (continued)

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.

	# to prison	Cost per year	Total Costs for prison	# to probation	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	5	(\$6,085)	(\$30,425)	6	(\$2,234)	(\$13,404)	(\$36,524)
Year 2	10	(\$6,085)	(\$60,850)	12	(\$2,234)	(\$26,808)	(\$89,411)
Year 3	15	(\$6,085)	(\$89,450)	18	(\$2,234)	(\$40,882)	(\$135,597)
Year 4	15	(\$6,085)	(\$89,450)	24	(\$2,234)	(\$54,286)	(\$152,533)
Year 5	15	(\$6,085)	(\$89,450)	27	(\$2,234)	(\$59,648)	(\$161,388)

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.

In response to a previous version of the bill, officials from the **Office of State Public Defender (SPD)** stated they could not 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 C felony.

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.

ASSUMPTION (continued)

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**, the **Department of Transportation**, the **Department of Elementary and Secondary Education**, 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 **Department of Revenue (DOR)** assume the proposal would have the following fiscal impact:

FY 2018 - Requires the following:

- Updates to forms and internal procedures;
- updates to website;
- training of staff;
- review of new charge codes to map to existing MODL codes

DOR assumes the need for:

• 1 Management Analyst I - 80 hours @ \$20.94 per hour =	\$1,675
• 1 Revenue Band Manager I - 40 hours @ \$25.93 per hr =	\$1,037
• Update web pages - Admin. Analyst II - 40 hours =	<u>\$ 904</u>
TOTAL	\$3,616

DOR assumes it will be able to absorb the above listed costs. If multiple bills pass which require department resources and updates, DOR could request additional FTEs and related equipment and expenses through the appropriations process.

ASSUMPTION (continued)

In response to a previous version of this proposal, officials from the **Boone County Sheriff's Department, St. Louis County Justice Services, and the Cole County Sheriff's Department** each assumed the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE			
<u>Costs - DOC - incarceration and/or supervision of offenders</u>	<u>(\$36,524)</u>	<u>(\$89,411)</u>	<u>(\$135,597)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$36,524)</u>	<u>(\$89,411)</u>	<u>(\$135,597)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<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 act modifies and creates new provisions relating to criminal offenses.

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

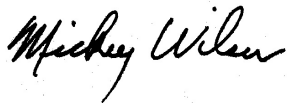
FISCAL DESCRIPTION (continued)

assault or domestic assault, any dangerous felony offense, or certain other felony offenses under Missouri law. Illegal reentry is punishable as a Class C felony.

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
Department of Revenue
Department of Transportation
Boone County Sheriff's Department
St. Louis County Justice Services
Cole County Sheriff's Department



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April 24, 2017

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April 24, 2017