

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0525-01
Bill No.: SB 46
Subject: Crimes and Punishment; Firearms; Law Enforcement Officers and Agencies;
 Victims of Crime
Type: Original
Date: January 20, 2017

Bill Summary: This proposal increases penalties for offenses against law enforcement officers and emergency responders who are the victims of assault and manslaughter.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
General Revenue	\$0	\$0	(\$72,118)	(\$1,314,878)
Total Estimated Net Effect on General Revenue	\$0	\$0	(\$72,118)	(\$1,314,878)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
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 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
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 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state this legislation proposes to enhance the penalties for assault and manslaughter if a law enforcement officer (LEO) or emergency responders are the victim. Law enforcement and emergency responders are considered 'special victims' in the revised criminal code that became effective on January 1, 2017. This bill separates law enforcement and emergency responders from special victims for enhanced penalty purposes. Special victims receive enhanced penalties in assault cases. Law enforcement and emergency responders will now receive higher enhanced penalties for crimes committed against them in the performance of their duties.

Voluntary manslaughter, involuntary manslaughter 1st and 2nd will now have enhanced penalties if the victim is a law enforcement officer or emergency responder. Voluntary manslaughter will now be a class A felony, involuntary manslaughter 1st will be a class B felony and involuntary manslaughter 2nd will be a class D felony when the victims are law enforcement or emergency responders.

Assault 1st currently applies to law enforcement officers and emergency responders. The enhanced penalty is a class A felony. Assault 2nd and 3rd offenders are serving class D and E felonies for 'special victims' offenses. Assault 2nd against law enforcement or emergency responders will now serve a class A felony, as a dangerous felony (must serve 85% of time). Assault 3rd cases will now serve a class C felony.

The estimate of the impact of the enhanced sentence is based upon admissions and releases in FY16 and the sentencing averages are shown in the table below. There is no current offense for voluntary and involuntary manslaughter when the victim is a law enforcement officer or emergency responder and the estimate is based on the percent of assault offenses when the victim is a law enforcement officer or emergency responder (7%).

A difficulty in making the required estimates is that some of the offenses being revised have not yet been enacted and the DOC has had to make estimates using pre-revised criminal code data. The impact of the revised criminal code for these offenses has not been factored into the impact assessment.

The estimates include the cost of incarcerating parole returns (estimated at 42% of the time after first release to the discharge of the sentence). This is an amount that the DOC did not include previous years.

ASSUMPTION (continued)

The offenses that have an impact on the DOC prison population include Voluntary Manslaughter, Involuntary Manslaughter 1st degree, Assault 2nd degree and Assault 3rd degree. The number of offenders being admitted for Involuntary Manslaughter 2nd degree is too small to estimate the number of offenders when the victim is a law enforcement officers or an emergency responder.

				Length of stay (yrs) to		
	Admissions	Avg. Sentence (yrs)		first release		
	FY 16	Before	After	Before	After	Increase
	(1)	(2)	(3)	(4)	(5)	(6)
Voluntary manslaughter	1.1	10.4	14.8	6.5	9.3	2.7
Invol. manslaughter 1st	2.3	7.0	9.0	4.2	5.9	1.7
Assault 2nd (LEO & EP)	69.0	8.0	16.0	6.8	13.6	6.8
Assault 3rd (LEO & EP)	20.0	3.5	8.0	2.1	5.2	3.1

(continued)

			Total Impact			Impact
Parole (yrs)			First	Parole		After
Before	After	Increase	Release	Returns	Total	10 years
(7)	(8)	(9)	(1)x(6)	(1)x(9)x42%		
3.9	5.6	1.6	3.0	0.5	3.5	3.5
2.8	3.2	0.4	3.8	1.0	4.8	4.8
1.2	2.4	1.2	469.2	34.8	504.0	207.0
1.4	2.8	1.4	62.0	8.4	70.4	70.4
Total Prison			538.0	44.6	582.7	285.7
Field Supervision (parole)			(538.0)	(44.6)	(582.7)	(285.7)

The total estimate of the legislative changes is an increase in the prison population of 582.7 but not all the changes will occur in the ten years of the budget forecast. After ten years the increase in the population is estimated to be 285.7. The changes to the sentencing of Assault 2nd from 8 years to 16 years and the offenses will be a dangerous felony means that the expected time served is 13.6 years. The impact of the changes is calculated from the time the offenders would have been released under current sentencing. The expected changes over the ten years of the budget horizon are shown below.

ASSUMPTION (continued)

	# 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	0	(\$6,085)	\$0	0	(\$2,234)	\$0	\$0
Year 2	0	(\$6,085)	\$0	0	(\$2,234)	\$0	\$0
Year 3	18	(\$6,085)	(\$109,530)	(18)	(\$2,234)	\$40,212	(\$72,118)
Year 4	20	(\$6,085)	(\$121,700)	(20)	(\$2,234)	\$44,680	(\$81,734)
Year 5	42	(\$6,085)	(\$254,353)	(42)	(\$2,234)	\$93,381	(\$174,241)
Year 6	69	(\$6,085)	(\$420,474)	(69)	(\$2,234)	\$154,369	(\$293,800)
Year 7	90	(\$6,085)	(\$544,608)	(90)	(\$2,234)	\$199,943	(\$388,148)
Year 8	145	(\$6,085)	(\$884,151)	(145)	(\$2,234)	\$324,600	(\$642,747)
Year 9	216	(\$6,085)	(\$1,313,143)	(216)	(\$2,234)	\$482,097	(\$973,703)
Year 10	286	(\$6,085)	(\$1,738,485)	(286)	(\$2,234)	\$638,254	(\$1,314,878)

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 faced with the enhanced penalties for assault on a law enforcement officer or an emergency responder.

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, Office of the State Courts Administrator,** and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
GENERAL REVENUE				
<u>Costs - DOC - Increased incarceration expense partially offset by decreased supervision (parole) expense</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$72,118)</u>	<u>(\$1,314,878)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>(\$72,118)</u>	<u>(\$1,314,878)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
	<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

Currently, the penalty for the offense of voluntary manslaughter is a Class B felony, involuntary manslaughter in the first degree is a Class C felony, and involuntary manslaughter in the second degree is a Class E felony. This act provides that if the victim is a law enforcement officer or emergency personnel, then the penalty for voluntary manslaughter is a Class A felony, involuntary manslaughter in the first degree is a Class B felony, and involuntary manslaughter in the second degree is a Class D felony.

FISCAL DESCRIPTION (continued)

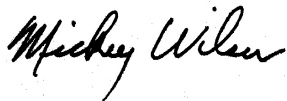
Currently, the penalty for the offense of assault in the second degree is a Class D felony, unless the victim is a defined "special victim", in which case the penalty is a Class B felony. This act provides that if the victim is a law enforcement officer or emergency personnel, then the penalty is a Class A felony.

Currently, the penalty for the offense of assault in the third degree is a Class E felony, unless the victim is a defined "special victim", in which case the penalty is a Class D felony. This act provides that if the victim is a law enforcement officer or emergency personnel, then the penalty is 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 Corrections
Office of the State Courts Administrator
Department of Public Safety
Office of Prosecution Services
Office of the State Public Defender



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Director
January 20, 2017

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Assistant Director
January 20, 2017