

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0525-04
Bill No.: SCS for SB 46
Subject: Crimes and Punishment; Firearms; Law Enforcement Officers and Agencies;
 Victims of Crime
Type: Original
Date: March 9, 2017

Bill Summary: This proposal modifies provisions relating to certain crimes against emergency service providers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
General Revenue	(More than \$1,446,360)	(More than \$3,398,934)	(More than \$5,313,972)	(More than \$11,416,795)
Total Estimated Net Effect on General Revenue	(More than \$1,446,360)	(More than \$3,398,934)	(More than \$5,313,972)	(More than \$11,416,795)

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

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 11 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:

Modifies provisions relating to certain crimes against emergency service providers and creates the Blue Alert System.

This version is similar to 0525-03 and broadens the special victims to include firefighters and emergency medical service providers. This version has the same impact as 525-03 which is below, but it also has an unknown impact as well. We have no measurable data to predict the impact of adding firefighters and emergency medical service providers to the special victims' classification, but we would expect there to be an increase in the number of people charged under this bill. This unknown impact would be added to the impact for FN 0525-03 below.

FN 0525-03 Impact:

This version eliminates voluntary and involuntary manslaughter provisions pertaining to law enforcement officers. If a law enforcement officer is the victim in assault 1st, 2nd, 3rd, 4th and resisting arrest offenses, offenders found guilty cannot be eligible for probation or parole. Conditional release terms, as prescribed in RSMo 558.011, would apply. It is worth noting that this population prediction can be impacted by the courts with the latitude provided them in conditional release cases. The statute states that in cases of class D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or the court can impose a sentence of imprisonment for a term longer than one year and shall commit the person to the custody of the department of corrections, in which the terms of conditional release would apply.

Assault 1st and 2nd are dangerous felonies in which the offenders would serve 100% of the sentence because they are excluded from the provisions of conditional release. Assault 4th is a class A misdemeanor with a term less than one year and, because of the incarceration requirements would not be supervised by the Department of Corrections.

The department uses new prison admissions in FY16 to estimate the number of offenders who will be impacted by the proposed sentencing changes and the time served by offenders released in FY16 to estimate the prison time served. While most prison time is served to first release many parolees are revoked and re-incarcerated. The department has estimated based upon an analysis of sentences discharged in FY16 that 42% of the time from first release to the discharge of the sentence is spent in prison. This time is added to the time to first release.

ASSUMPTION (continued)

A difficulty the department has in estimating the impact of changes to the sentencing of assault offenses for the fiscal impact is that the criminal code revision that was enacted on January 1, 2017 included a major revision to the assault statutes by creating four degrees of assault. There has been no sentencing of offenders under these new statutes so the department is assuming an equivalency between the old offense of assault 1st degree of a law enforcement officer (LEO) and the new offense of assault 1st degree against a special victim and similarly for assault 2nd degree. The new offense of assault 3rd degree is approximated by the offenders the department received for misdemeanor probation.

For assault 1st (LEO), 5 offenders were admitted to serve a term sentence and 2 received probation in FY16. The term admissions serve 62% of an average 17 year sentence. As dangerous felons, the 5 term sentences would do an additional 38% and the two probation cases serve 100% of the sentence because all would be excluded from conditional release.

For assault 2nd (LEO), 69 offenders were admitted to serve a term sentence, 32 were 120 day admissions, and 96 received probation in FY16. The term sentence group could expect to serve 52% of an 8 year sentence in prison. As dangerous felons, they would be excluded from conditional release and have to serve 100% of the sentence in prison or an additional 3.9 years. The other 128 120 Day/probation cases would get term sentences and would serve the entire prison sentence.

The 20 new admissions for assault 3rd were probation cases in FY16. This group would now serve 67% of an average 3.5 year sentence or 2.3 years before release. And 42% of the releases can expect to become parole returns.

Finally, in FY16 there were 95 term sentences for resisting arrest, 34 received 120 Day and 248 received probation. The term sentence group could expect to serve 31% of an average 4.2 year sentence. These individuals will now serve 67% or 1.5 additional years in prison. The 282 120 Day/probation cases would all serve 67% of the sentence. And 42% of the releases can expect to become parole returns.

ASSUMPTION (continued)

In response to 0525-03 DOC stated the following table illustrates the sentence distribution and expected impact to DOC.

Impact of mandating no probation or parole for assault on a law enforcement officer and resisting a arrest

	Admissions FY16 (1)	Average Sentence (yrs) FY16		Length of stay (yrs) to first release (FY16)			Time remaining on sentence (yrs)			Total Impact			Impact after 10 years
		Before (2)	After (3)	Before (4)	After (5)	Increase (6)	Before (7)	After (8)	Increase (9)	First	Parole	Total	
										release (10)	returns (11)		
Term Sentences (serve longer in prison)													
Assault 1st (LEO)	5	17.0	17.0	14.5	17	2.6	2.6	-	-2.6	13	-5	7	-
Assault 2nd (LEO)	69	8.0	8.0	6.8	8	1.2	1.2	-	-1.2	83	-35	48	48
Resisting Arrest	95	4.2	4.2	1.3	2.8	1.5	2.9	1.4	-1.5	144	-60	83	83
120 day and Probation (now serve term sentence)													
Assault 1st (LEO)	2		17.0		17.0	17.0	-	-		34	-	34	20
Assault 2nd (LEO)	128		8.0		8.0	8.0	-	-		1,024	-	1,024	1,024
Assault 3rd (LEO)	20		3.5		2.3	2.3	-	1.2	1.2	47	10	57	57
Resisting Arrest	282		4.2		2.8	2.8	-	1.4	1.4	794	164	958	958
Total Prison	601									2,138	73	2,211	2,190
Field Supervision (Parole)													-1,694

The total impact is expected to be an increase in the prison population of 2,211 but only 2,190 would occur within the 10 year budget horizon. There would be a reduction of 1,694 in the field population as more time is spent in prison. The increase in the prison population is so large because many offenders convicted of the assault offenses are currently sentenced to probation or a 120 day program under 559.115 RSMo.

The timing of the impact is calculated by adding the increase in the prison population of those offenders who would have been sentenced to a term sentence after the time they would have served. For the offenders who would not have been incarcerated under current legislation the impact occurs in the first year following the enactment of the bill. The calculations below show that the prison population will increase by 423 in the first year and will increase significantly in each year for eight years when the prison population will increase by 2,187.

Assault of LEO 1st (Dangerous Felony) - serving a longer time served

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions										
Admissions	5	5	5	5	5	5	5	5	5	5
Releases to parole									-	-
Prison and Field Population (admissions* increase d length of stay)										
Prison	-	-	-	-	-	-	-	-	-	-
Impact										
Total prison population	-	-	-	-	-	-	-	-	-	-
Field Population	-	-	-	-	-	-	-	-	-	-

Assault of LEO 2nd (Dangerous Felony) - serving a longer time served

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions										
Admissions	69	69	69	69	69	69	69	69	69	69
Releases to parole										
Prison and Field Population (admissions* increase d length of stay)										
Prison	-	-	-	-	-	-	-	48	48	48
Field Population	-	-	-	-	-	-	-	-48	-48	-48

Resisting Arrest - serving a longer time served

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions										
Admissions	95	95	95	95	95	95	95	95	95	95
Releases to parole										
Prison and Field Population (admissions* increase d length of stay)										
Prison	-	-	46	83	83	83	83	83	83	83
Field Population	-	-	-46	-83	-83	-83	-83	-83	-83	-83

Assault of LEO 1st (Dangerous Felony) - offenders now serving a term sentence

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions										
Admissions	2	2	2	2	2	2	2	2	2	2
Releases to parole										
Prison and Field Population (admissions* increase d length of stay)										
Prison	2	4	6	8	10	12	14	16	18	20
Field Population	-2	-4	-6	-8	-10	-12	-14	-16	-18	-20

Assault of LEO 2nd (Dangerous Felony) - offenders now serving a term sentence

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions										
Admissions	128	128	128	128	128	128	128	128	128	128
Releases to parole										
Prison and Field Population (admissions* increase d length of stay)										
Prison	128	256	384	512	640	768	896	1,024	1,024	1,024
Previous five year probation	128	256	384	512	640	640	640	640	640	640
Reduction in Field Population	-128	-256	-384	-512	-640	-640	-640	-640	-640	-640

Assault of LEO 3rd (offenders now serving a term sentence)

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions										
Admissions	20	20	20	20	20	20	20	20	20	20
Releases to parole			17	20	20	20	20	20	20	20
Prison and Field Population (admissions* increase d length of stay)										
Prison	20	40	43	57	57	57	57	57	57	57
Previous three year probation	20	40	60	60	60	60	60	60	60	60
Field Population	-20	-40	-43	-57	-57	-57	-57	-57	-57	-57

ASSUMPTION (continued)

Resisting Arrest

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions										
Admissions	282	282	282	282	282	282	282	282	282	282
Releases to parole				169	282	282	282	282	282	282
Prison and Field Population (admissions* increased length of stay)										
Prison	282	564	846	959	959	959	959	959	959	959
Previous three year probation	282	564	846	846	846	846	846	846	846	846
Field Population	-282	-564	-846	-846	-846	-846	-846	-846	-846	-846

Total Impact

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Longer time served										
Assault of LEO 1st Term	-	-	-	-	-	-	-	-	-	-
Assault of LEO 2nd Term	-	-	-	-	-	-	-	48	48	48
Resisting Arrest	-	-	46	83	83	83	83	83	83	83
New admissions previously served probation/120 day										
Assault of LEO 1st new term	2	4	6	8	10	12	14	16	18	20
Assault of LEO 2nd new term	128	256	384	512	640	768	896	1,024	1,024	1,024
Assault of LEO 3rd new term	20	40	43	57	57	57	57	57	57	57
Resisting Arrest	282	564	846	959	959	959	959	959	959	959
Total Prison population	432	864	1,325	1,618	1,748	1,878	2,008	2,187	2,189	2,191
Total Field population	-432	-864	-1,325	-1,506	-1,636	-1,636	-1,640	-1,690	-1,692	-1,694

If this impact statement has changed from statements submitted in previous years, it is because the department'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.

ASSUMPTION (continued)

	# to prison	Cost per year	Total Costs for prison	fewer # to probation	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation (More than..))
Year 1	432	(\$6,085)	(\$2,628,720)	(432)	(\$2,234)	\$965,088	(\$1,386,360)
Year 2	864	(\$6,085)	(\$5,257,440)	(864)	(\$2,234)	\$1,930,176	(\$3,393,809)
Year 3	1,325	(\$6,085)	(\$8,062,625)	(1,325)	(\$2,234)	\$2,960,050	(\$5,308,719)
Year 4	1,618	(\$6,085)	(\$9,845,530)	(1,506)	(\$2,234)	\$3,364,404	(\$6,877,823)
Year 5	1,748	(\$6,085)	(\$10,636,580)	(1,636)	(\$2,234)	\$3,654,824	(\$7,557,277)
Year 6	1,878	(\$6,085)	(\$11,427,630)	(1,638)	(\$2,234)	\$3,659,292	(\$8,576,873)
Year 7	2,008	(\$6,085)	(\$12,218,680)	(1,640)	(\$2,234)	\$3,663,760	(\$9,634,229)
Year 8	2,187	(\$6,085)	(\$13,307,895)	(1,690)	(\$2,234)	\$3,775,460	(\$10,949,771)
Year 9	2,189	(\$6,085)	(\$13,320,065)	(1,692)	(\$2,234)	\$3,779,928	(\$11,177,791)
Year 10	2,191	(\$6,085)	(\$13,332,235)	(1,694)	(\$2,234)	\$3,784,396	(\$11,410,551)

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state in Section 650.520, there is hereby created a statewide program called the "Blue Alert System" referred to in this section as the "System" to aid in the identification, location, and apprehension of any individual or individuals suspected of killing or seriously wounding any law enforcement officer. The MHP's Criminal Justice Information Services Division estimates 600 hours at a cost of \$100 per hour for a total of \$60,000 (600 x \$100) based on the following projections:

- 100 Hours - Discovery and Design
- 350 Hours - Write Code to Develop Blue Alert Module
- 150 Hours - Testing
- 600 Hours - Total x \$100 = \$60,000

In addition, MHP estimates an annual maintenance cost of \$5,000.

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

ASSUMPTION (continued)

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

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
GENERAL REVENUE				
<u>Costs - MHP -</u> development and ongoing costs for Blue Alert System	(\$60,000)	(\$5,125)	(\$5,253)	(\$6,244)
<u>Costs - DOC -</u> Increased incarceration expense partially offset by decreased supervision (parole) expense	<u>(More than</u> <u>\$1,386,360)</u>	<u>(More than</u> <u>\$3,393,809)</u>	<u>(More than</u> <u>\$5,308,719)</u>	<u>(More than</u> <u>\$11,410,551)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(More than</u> <u>\$1,446,360)</u>	<u>(More than</u> <u>\$3,398,934)</u>	<u>(More than</u> <u>\$5,313,972)</u>	<u>(More than</u> <u>\$11,416,795)</u>

<u>FISCAL IMPACT -</u> <u>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

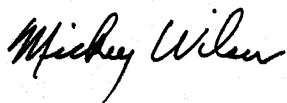
This act provides that persons convicted of certain offenses against law enforcement officers, firefighters, or emergency medical service providers are ineligible for bail, continuation of bail, probation, or parole. The act also provides that persons convicted of resisting or interfering with arrest, detention, or stop are ineligible for probation or parole.

The act creates the Blue Alert System for the notification of the general public in instances where law enforcement officers are killed or injured. The Department of Public Safety is given certain duties relating to the operation of the system. Any person who knowingly makes a false report that triggers an alert of the system is guilty of a Class A misdemeanor.

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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