

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0673-01
Bill No.: SB 178
Subject: Courts; Crimes and Punishment; Judges; Juries; Sexual Offenses
Type: Original
Date: February 2, 2017

Bill Summary: This proposal creates a process to determine whether criminal offenders are predatory sexual offenders and increases penalties against predatory, prior, and persistent sexual offenders.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$126,771)	(\$310,335)	(\$474,813)
Total Estimated Net Effect on General Revenue	(\$126,771)	(\$310,335)	(\$474,813)

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

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 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 at the **Department of Corrections (DOC)** assume the legislation creates three new offenses: predatory, persistent or prior sex offenders.

1. Section 566.127 defines a predatory sexual offense to be the offense of statutory rape 1st degree, statutory sodomy 1st degree, rape 1st degree, sodomy 1st degree, child molestation 1st degree (when sentenced as a class A or B felony), child molestation 2nd degree (when sentenced as a class A or B felony) or sexual abuse 1st degree (when sentenced as a class B felony). The penalty is life without parole.
2. Section 566.129 defines a prior sex offender to be a sex offender with one prior conviction in chapter 566 and a persistent sex offender to be a sex offender with two or more prior sex convictions. The prior sex offenses include felonies and misdemeanors. The penalty for a prior sex offender is an increase in the felony class by one step. The penalty for a persistent sex offender is an increase in the felony class by two steps. Prior or persistent sex offenders convicted of a class A felony shall serve life without parole. It should be noted that most serious sex offenses are unclassified felonies and will not be affected by the felony class enhancement but all prior and persistent sex offenders shall be sentenced without probation or parole for three years. Probation will no longer be a sentencing option.

A difficulty in determining an impact is that section 566.125.1 defines the offenses of predatory and persistent sex offender and the section is not deleted in the bill. If the bill were enacted, there would be two statutes defining the same offense. A further difficulty is that the language defining a predatory sexual offender does not include a clear requirement for a prior offense from the list of predatory sex offenses. Section 566.1235.1 does require a prior conviction.

The following impact assessment is provided under the assumption that the bill's sponsor intends to delete section 566.125.1

ASSUMPTION (continued)

The DOC estimates that in FY16 there were 62 new admissions who would have been sentenced as a predatory, persistent or prior sex offender of which 20 were sentenced to probation. The definition of a prior conviction requires that the current offense is committed after the last sentencing of the prior sex offenses.

**New sex offenders from SB178
 Admissions in FY16**

	Disposition		
	Prison	Probation	Total
Prior sex offenders	36	20	56
Persistent sex offender	4	-	4
Predatory sex offenders	2		2
Total	42	20	62

1. Predatory Sex Offenders

The definition of a predatory sex offender in the bill includes the offenses that define a persistent and predatory sex in the current statute (566.125.1) and while there is some enhancement in the sentencing the changes in SB178 is not expected to increase the number or the length of time the predatory sex offenders serve. It is already long and the impact of the proposed changes will be beyond the 10 year budget horizon. The DOC estimates that two offenders per year will be sentenced as predatory sex offenders and they will serve 30 or more years. At the end of the 10 year budget forecast the predatory sex offender population will be 20.

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	Maximum Population
Predatory Sex Offenders	2	4	6	8	10	12	14	16	18	20	30

ASSUMPTION (continued)

2. Prior and Persistent Sex Offenders

The total impact for the prior and persistent sex offenders are broken out below. For those sentenced as a class A felony the full impact will be beyond the 10 year budget horizon. The impact includes incarceration to first release and an estimate of parolees being revoked from parole. Because of an increase in the sentence there is also an increase in field supervision but this will be offset by no offenders being sentenced to probation.

Sex offenders sentenced as prior sex offenders
 Admitted in FY16 and will serve longer sentences

Sentenced as Felony class	Admissions FY16 (1)	Average Sentence (yrs)			Length of stay (yrs) to first release			Parole (yrs)			Parole returns (9)*42% (10)	Additional prison time served (6)+(10) (11)	Additional parole time (9)*58% (12)	Total Impact (1)*(11), (1)*(12) (13)	Impact after 10 years (14)
		Before (2)	After (3)	Before (4)	After (5)	Increase (6)	Before (7)	After (8)	Increase (9)						
A as LWOP	5	17.6	30.0	12.3	30.0	17.7	5.3	-	-5.3	-	17.7	-	88	-	
B as A	5	8.0	17.6	5.6	12.3	6.7	2.4	5.3	2.9	1.2	7.9	1.67	40	16	
D as C	12	5.4	7.2	3.8	5.0	1.3	1.6	2.2	0.5	0.2	1.5	0.31	18	18	
E as D	2	4.0	5.4	2.8	3.8	1.0	1.2	1.6	0.4	0.2	1.2	0.24	2	2	
Unclassified - no change	12	20.0	20.0	14.0	14.0	-	6.0	6.0	-	-	-	-	-	-	
Total Prison	36	11.4	13.7	8.0	9.6	1.6	3.4	4.1	0.7	0.3	1.9	-	148	35	
Field Supervision												0.41	15	15	

Sex offenders sentenced as prior sex offenders
 Previously sentenced to probation in FY16

Sentenced as Felony class	Admissions FY16 (1)	Average Sentence (yrs)			Length of stay (yrs) to first release			Parole (yrs)			Parole returns (9)*42% (10)	Additional prison time served (6)+(10) (11)	Additional parole time (9)*58% (12)	Total Impact (1)*(11), (1)*(12) (13)	Impact after 10 years (14)
		Before (2)	After (3)	Before (4)	After (5)	Increase (6)	Before (7)	After (8)	Increase (9)						
B as A	1	7.2	17.6	-	12.3	12.3	-	5.3	5.3	2.2	14.5	3.1	15	10	
D as C	5	5.4	7.2	-	5.0	5.0	-	2.2	2.2	0.9	5.9	1.3	30	30	
E as D	14	4.0	5.4	-	3.8	3.8	-	1.6	1.6	0.7	4.5	0.9	62	62	
Total Prison	20	4.5	6.5	-	4.5	4.5	-	1.9	1.9	0.8	5.3	1.1	107	102	
Probation	-20	5.0										5.0	-100	-100	
Field Supervision													-78	-78	

Sex offenders sentenced as persistent sex offenders
 Admitted in FY16 and will serve longer sentences

Sentenced as Felony class	Admissions FY16 (1)	Average Sentence (yrs)			Length of stay (yrs) to first release			Parole (yrs)			Parole returns (9)*42% (10)	Additional prison time served (6)+(10) (11)	Additional parole time (9)*58% (12)	Total Impact (1)*(11), (1)*(12) (13)	Impact after 10 years (14)
		Before (2)	After (3)	Before (4)	After (5)	Increase (6)	Before (7)	After (8)	Increase (9)						
A as LWOP	1	10.0	30.0	7.0	30.0	23.0	3.0	-	-3.0	-	23.0	-	23	3	
E as C	1	4.0	7.2	2.8	5.0	2.2	1.2	2.2	1.0	0.4	2.6	0.6	3	3	
Unclassified	2	20.0	20.0	14.0	14.0	-	6.0	6.0	-	-	-	-	-	-	
Total Prison	4	13.5	19.3	9.5	15.8	6.3	4.1	3.5	-0.5	0.1	6.4	-	26	6	
Field Supervision												0.6	1	1	

Sex offenders sentenced as prior sex offenders
 Previously sentenced to probation in FY16

Sentenced as Felony class	Admissions FY16 (1)	Average Sentence (yrs)			Length of stay (yrs) to first release			Parole (yrs)			Parole returns (9)*42% (10)	Additional prison time served (6)+(10) (11)	Additional parole time (9)*58% (12)	Total Impact (1)*(11), (1)*(12) (13)	Impact after 10 years (14)
		Before (2)	After (3)	Before (4)	After (5)	Increase (6)	Before (7)	After (8)	Increase (9)						
D as B	1	5.4	8.0	-	5.6	5.6	-	2.4	2.4	1.0	6.6	1.4	7	7	
E as C	2	4.0	7.2	-	5.0	5.0	-	2.2	2.2	0.9	5.9	1.3	12	12	
Total Prison	3	4.5	7.5	-	5.2	5.2	-	2.2	2.2	0.9	6.2	1.3	19	19	
Probation	-3	5.0										5.0	-15	-15	
Field Supervision													-11	-11	

ASSUMPTION (continued)

The timing of the impact begins in the first year of enactment when offenders who would have been sentenced to probation are incarcerated. For the offenders who would have received a prison sentence the impact begins when the time that would have been served to release is completed.

Total Impact of SB178

Overall the prison population is expected to increase by 299 but the increase is only 182 in the first ten years. The field population will decline by 73.

Impact of Prior, Persistent and Predator Sex Offenses

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Admissions										
Prior Sex Offenders										
Prison sentences- will serve longer	36	36	36	36	36	36	36	36	36	36
Previously served probation	20	20	20	20	20	20	20	20	20	20
Persistent Sex Offenders										
Prison sentences- will serve longer	4	4	4	4	4	4	4	4	4	4
Previously probation	3	3	3	3	3	3	3	3	3	3
Predatory Sex Offenders										
	2	2	2	2	2	2	2	2	2	2
Prison and Field Population (admissions * increased length of stay)										
Prior Sex Offenders										
Prison sentences- will serve longer	-	-	-	2	14	20	21	25	30	35
Previously served probation	20	40	60	80	92	98	99	100	101	102
Persistent Sex offenders										
Prison sentences- will serve longer	-	-	-	-	1	1	2	4	5	6
Previously served probation	3	6	9	12	15	18	19	19	19	19
Predator Sex Offenders										
	2	4	6	8	10	12	14	16	18	20
Total prison	25	50	75	102	132	149	155	164	173	182
Field supervision				-15	-29	-40	-51	-59	-67	-73

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 would assume the following costs below:

FY 2018 - (\$126,771) = 25 offenders in prison at \$6,085 per year for ten months

FY 2019 - (\$310,335) = 50 offenders in prison at \$6,085 per year plus 2% inflation

FY 2020 - (\$474,813) = 75 offenders in prison at \$6,085 per year plus an additional 2% inflation

ASSUMPTION (continued)

Officials at the **Office of the Attorney General (AGO)** assume the proposal would result in some increased witness costs in some cases and additional victim advocacy. The AGO assumes that some of the increased costs could be offset by the originating county, and that such costs might not exceed \$100,000. If the proposal results in the AGO being required to provide victim advocate services for witnesses in enhancement proceedings, it will seek additional future appropriation.

Officials at the **Office of the State Public Defender (SPD)** assume the proposed legislation would provide additional options for sentencing the underlying criminal case. SPD uses the Rubin Brown case weights as the method for determining the workload and assumes no fiscal impact from this proposal. While the number of new cases 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.

Officials at the **Office of the State Courts Administrator**, the **Department of Public Safety's Missouri Highway Patrol** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **St. Louis County Police Department**, the **Springfield Police Department** and the **St. Louis County Justice Services** each assume no fiscal impact to their respective entities from this proposal.

Officials from the Ashland Police Chief, Boone County Sheriff Department, Buchanan County Sheriff's Department, Cass County Sheriff Department, Clark County Sheriff's Department, Cole County Sheriff Department, Columbia Police Department, Independence Police Department, Jackson County Sheriff Department, Jefferson City Police Department, Platte County Sheriff's Department, St. Charles Police Department, St. Joseph Police Department and the St. Louis Metropolitan Police Department did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
<u>Cost - DOC - increase in prison population relating to predatory, prior and persistent sexual offenders</u>	<u>(\$126,771)</u>	<u>(\$310,335)</u>	<u>(\$474,813)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$126,771)</u>	<u>(\$310,335)</u>	<u>(\$474,813)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Small Business</u>			

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

FISCAL DESCRIPTION

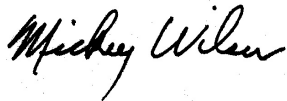
This act defines the term predatory sexual offender and provides that such offender determined to be predatory sexual offenders shall be sentenced to life without eligibility of probation or parole. Predatory sexual offenders shall not receive final discharge from parole or be furloughed by the Department of Corrections or any of its divisions. The act specifies a two-stage process by which a second trial stage shall be held after the conviction of an offender, to determine whether that offender is a predatory sexual offender.

The act also creates a process for determining whether an offender is a prior or persistent sexual offender and creates provisions regarding the sentencing of prior and persistent sexual offenders, including the provisions that an offender determined to be a prior sexual offender shall be sentenced to the authorized term of imprisonment one class step higher than the offense for which the offender was found guilty, and that an offender determined to be a persistent sexual offender shall be sentenced to the authorized term of imprisonment two class steps higher for which the offender was found guilty.

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 Attorney General
Office of the State Public Defender
Office of the State Courts Administrator
Department of Public Safety
 Missouri Highway Patrol
Office of Prosecution Services
St. Louis County Police Department
Springfield Police Department
St. Louis County Justice Services



Mickey Wilson, CPA
Director
February 2, 2017

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February 2, 2017