

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2034-01  
Bill No.: SB 512  
Subject: Crimes and Punishment; Criminal Procedure  
Type: Original  
Date: March 31, 2017

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

**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	(\$12,003)	(\$29,384)	(\$44,958)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$12,003)</b>	<b>(\$29,384)</b>	<b>(\$44,958)</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 7 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 Public Safety - Missouri Highway Patrol**, the **Office of Prosecution Services**, the **Missouri Department of Conservation**, and the **Department of Transportation** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the State Courts Administrator** state there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

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 faced with the enhanced penalties for second and subsequent harassment offenses, a new class E felony. The legislation also provides for increased penalties for acceding to corruption.

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 Corrections (DOC)** state this legislation proposes a number of changes to the Missouri criminal code. Only 565.076 has an impact that will affect the department.

252.069 – Gives conservation commission agents the right to arrest violators of BAC offenses upon the water and on the banks of public land. This could increase the number of offenders who are arrested for boating under the influence but no offenders have been charged with a felony offense of Boating While Intoxicated in the past three years, so it does not appear that this right for conservation officials to arrest intoxicated individuals will lead to an increase in the population. Thus, this is expected to have no impact.

479.170 – Includes a modernized statute number for a motor vehicle offense. No impact expected.

ASSUMPTION (continued)

488.029 – Includes a modernized chapter number for a controlled substance offense. No impact expected.

557.035 - Includes a modernized statute number regarding special victims. No impact expected.

565.076 – Change 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 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.

565.091 – This would add similar language to what was seen under the change to 565.076 to create a class E felony under an enhancement to the existing harassment statute. However, no one has been charged under the previous misdemeanor, so no impact is expected.

566.010 – Makes changes to the grammar regarding sex offender statutes but no substantive changes made. No impact expected.

575.280 – Returns current corruption statute to the previous penalty. The statute for acceding to corruption became a Class A Misdemeanor as of January 1, 2017. Likewise, falsely testifying in a corruption case became a Class E Felony as of January 1, 2017. This bill would return the penalty for acceding to corruption to a Class C Felony and false testimony to a Class D felony (the pre-2017 penalties). Still, no impact is expected with these changes because there were no charges under the previous statutes.

577.001 – Allows for charges under federal or military statutes for BAC offenses. This should have no impact because federal and military crimes will still likely be charged in federal court or military tribunals rather than under Missouri law.

577.010 – Proposes a number of new changes to the Class B boating under the influence offense which would involve “criminal negligence” and the death of other person’s. Technical memo has been submitted here for clarification. The proposed changes are covered under other more serious offenses, so no impact is expected.

595.045 – Makes changes regarding the “Crime Victims’ Compensation Fund”. No impact expected.

ASSUMPTION (continued)

Impact of Changes

The only change expected to have an impact on the Missouri Department of Corrections is under 575.076. Under this proposed updated statute, a new E violent felony will be created. The impact is shown below.

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.

The DOC would assume this legislation will result in long term costs as indicated in the chart below.

	# to prison	Cost per year	Total Costs for <b>prison</b>	# to probation	Cost per year	Total cost for <b>probation and parole</b>	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	2	(\$6,085)	(\$12,170)	1	(\$2,234)	(\$2,234)	(\$12,003)
Year 2	4	(\$6,085)	(\$24,340)	2	(\$2,234)	(\$4,468)	(\$29,384)
Year 3	6	(\$6,085)	(\$36,510)	3	(\$2,234)	(\$6,702)	(\$44,958)
Year 4	6	(\$6,085)	(\$36,510)	6	(\$2,234)	(\$13,404)	(\$52,969)
Year 5	6	(\$6,085)	(\$36,510)	6	(\$2,234)	(\$13,404)	(\$54,029)

Officials from the **Department of Revenue (DOR)** state the following changes are made in the bill:

- §577.001 - The proposed language adds federal and military offenses to the definition of "intoxication-related traffic offense". It's also removing certain felony DWI-Fatality offenses from this section and adds them to §577.010; and
- §577.010 - The proposed language was removed from §577.001 and placed in this section with all other driving while intoxicated offenses. This will require three new charge codes to be created by State Judicial Records Committee (SJRC). This would require the Department to map the newly created charge codes to our existing MODL codes.

ASSUMPTION (continued)

DOR assumes the proposal would require the following changes:

- Updates to Forms and Internal procedures;
- Updates to Website;
- Training of Staff; and
- Review of new charges codes to map to existing MODL codes.

These updates would require the following staff time:

Management Analyst I - 80 hours @ \$20.94 per hour =	\$1,675
Revenue Band Manager I - 40 hours @\$25.93 per hour=	<u>\$1,037</u>
Total	\$2,712

Update web pages-

Administrative Analyst III - 40 hrs. @ \$22.59 per hour =	\$904
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DOR assumes it will be able to absorb the above listed costs. If multiple bills pass which require Department resources and updates, the Department could request additional FTE's and related equipment and expenses through the appropriation process.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
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**GENERAL REVENUE FUND**

<u>Cost - DOC - new class E felony requires additional incarceration and supervision of offenders</u>	<u>(\$12,003)</u>	<u>(\$29,384)</u>	<u>(\$44,958)</u>
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<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b><u>(\$12,003)</u></b>	<b><u>(\$29,384)</u></b>	<b><u>(\$44,958)</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 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.

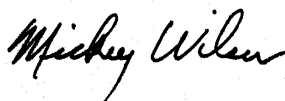
FISCAL DESCRIPTION

This proposal modifies various provisions relating to criminal offenses.

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 Prosecution Services  
Office of the State Public Defender  
Department of Corrections  
Office of the State Courts Administrator  
Missouri Department of Conservation  
Department of Transportation  
Department of Revenue



Mickey Wilson, CPA  
Director  
March 31, 2017

Ross Strobe  
Assistant Director  
March 31, 2017