

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4239-03
Bill No.: Perfected SS for SB 579
Subject: Crimes and Punishment; Firearms; Law Enforcement Officers and Agencies;
 Victims of Crime
Type: Original
Date: January 31, 2018

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 2019	FY 2020	FY 2021	Fully Implemented (FY 2026)
General Revenue	(\$2,394,482)	(\$5,737,613)	(\$8,712,080)	(\$16,286,386)
Total Estimated Net Effect on General Revenue	(\$2,394,482)	(\$5,737,613)	(\$8,712,080)	(\$16,286,386)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2026)
Total Estimated Net Effect on Other State Funds	\$0	\$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 2019	FY 2020	FY 2021	Fully Implemented (FY 2026)
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 2019	FY 2020	FY 2021	Fully Implemented (FY 2026)
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 2019	FY 2020	FY 2021	Fully Implemented (FY 2026)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol**, and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state the bill mandates no probation or parole for assault 1st, 2nd, 3rd and 4th degree against law enforcement officers and emergency providers and for the offense of resisting arrest. No parole means that an offender is required to serve to the conditional release unless other sentencing restrictions make the sentence ineligible for conditional release. Law enforcement officers and emergency providers are special victims (565.002 RSMo.) with an enhanced felony class. Current statutes allow probation and 120-day court stipulated sentences for all the offenses.

Assault 1st degree and Assault 2nd degree, if the victim is a special victim, are dangerous felonies in which the offenders would serve 100% of the sentence, because they are excluded from the provisions of conditional release. Offenders convicted of Assault 3rd will serve to conditional release. Assault 4th against a special victim is a class A misdemeanor and would not be supervised by the Department of Corrections, as they would be required to serve a jail sentence.

The department uses new prison admissions in FY17 to estimate the number of offenders who will be impacted by the proposed sentencing changes, and the time served by offenders released in FY17 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 FY17 that 40% of the time after first release to the discharge of the sentence is spent in prison as a parole violator. This time is added to the time to first release.

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 have been few sentences 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.

ASSUMPTION (continued)

For assault 1st (LEO), 7 offenders were admitted to serve a term sentence and 2 received 120-day or probation in FY17. The term admissions will serve 85% of a 20 year sentence, but will serve 100% after the bill is enacted.

For assault 2nd (LEO), 75 offenders were admitted to serve a term sentence and will serve 85% of 8 years as dangerous felons, and 149 were sentenced to 120 day or probation in FY17. After enactment, all offenders will serve all the sentence in prison.

For assault 3rd degree, there were 7 offenders on probation who will serve a sentence of 3.5 years. First release will be on conditional release (2.3 years) and 0.5 years is expected to be served as a parole violator.

For resisting arrest, there are 98 term sentences with an average sentence of 4.2 years who will, after enactment, serve 2.8 years to conditional release and, on average, 0.56 years will be served as a parole violator. After enactment, there will be 305 offenders who were sentenced to 120-day or probation, required to serve a term sentence to conditional release.

The following table illustrates the sentence distribution and expected total impact to DOC.

Impact of mandating no probation or parole for assault on LEOs and resisting arrest

Admissions FY 17 (1)	Avg. Sentence (years)		Length of stay (yrs) to first release (FY17)			Time remaining on sentence (years)			Total Prison Impact			Impact after 10 years	
	Before (2)	After (3)	Before (4)	After (5)	Increase (6)	Before (7)	After (8)	Increase (9)	First release (10)	Parole returns (11) 40%	Total		
Term Sentences (serve longer in prison)													
Assault 1st (LEO)	7	20.0	20.0	17.0	20.0	3.0	3.0	-	-3.0	21	-9	12	-
Assault 2nd (LEO)	75	8.0	8.0	6.8	8.0	1.2	1.2	-	-1.2	90	-38	52	52
Resisting Arrest	98	4.2	4.2	1.6	2.8	1.2	2.6	1.4	-1.2	119	-50	69	69
120 day and Probation (now serve term sentence)													
Assault 1st (LEO)	2		20.0		20.0	20.0	-	-		40	-	40	20
Assault 2nd (LEO)	149		8.0		8.0	8.0	-	-		1,192	-	1,192	1,192
Assault 3rd (LEO)	7		3.5		2.3	2.3	-	1.2	1.2	16	3	20	20
Resisting Arrest	305		4.2		2.8	2.8	-	1.4	1.4	858	178	1,036	1,036
Total Prison	643									2,337	84	2,432	2,400
Field Suspension (Parole)												-1,587	-1,587

The total impact is expected to be an increase in the prison population of 2,432, but only 2,400 would occur within the 10 year budget horizon. There would be a reduction of 1,587 in the field population as more time is spent in prison. The increase in the prison population is large because many offenders convicted of the assault and resisting arrest 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

ASSUMPTION (continued)

impact occurs in the first year following the enactment of the bill. The calculations below show that the prison population will increase by 463 in the first year and will increase by about 400 for the next three years. Most of the increase will occur by the eighth year.

Assault of LEO 1st degree (Dangerous Felony)

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
Cumulative Impact - existing statute										
Prison population	7	14	21	28	35	42	49	56	63	70
Field population	2	4	6	8	10	10	10	10	10	10
Total Population	9	18	27	36	45	52	59	66	73	80
After enactment										
Prison population	9	18	27	36	45	54	63	72	81	90
Field population										
Total Population	9	18	27	36	45	54	63	72	81	90
Net change										
Prison population	2	4	6	8	10	12	14	16	18	20
Field population	-2	-4	-6	-8	-10	-10	-10	-10	-10	-10
Total Population						2	4	6	8	10

Assault of LEO 2nd degree (Dangerous Felony)

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
Cumulative Impact - existing statute										
Prison Population	75	150	225	300	375	450	525	600	600	600
Field Population	-	-	-	-	-	-	-	-	-	-
Population Change	75	150	225	300	375	450	525	600	600	600
After enactment										
Prison Population	224	448	672	896	1120	1344	1568	1792	1792	1792
Field Population										
Population Change	224	448	672	896	1120	1344	1568	1792	1792	1792
Net change										
Prison population	149	298	447	596	745	894	1,043	1,192	1,192	1,192
Field population										
Total Population	149	298	447	596	745	894	1,043	1,192	1,192	1,192

Assault of LEO 3rd Degree

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
Cumulative Impact - existing statute										
Prison Population	-	-	-	-	-	-	-	-	-	-
Field Population	7	14	21	28	35	35	35	35	35	35
Population Change	7	14	21	28	35	35	35	35	35	35
After enactment										
Prison Population	7	14	20	20	20	20	20	20	20	20
Field Population			1	5	5	5	5	5	5	5
Population Change	7	14	21	25	25	25	25	25	25	25
Net change										
Prison population	7	14	20	20	20	20	20	20	20	20
Field population	-7	-14	-20	-23	-30	-30	-30	-30	-30	-30
Total Population				-4	-11	-11	-11	-11	-11	-11

ASSUMPTION (continued)

Resisting Arrest

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
Cumulative Impact - existing statute										
Prison Population	98	198	255	255	255	255	255	255	255	255
Field Population	305	610	954	1,052	1,072	1,072	1,072	1,072	1,072	1,072
Population Change	403	806	1,209	1,307	1,327	1,327	1,327	1,327	1,327	1,327
After enactment										
Prison Population	403	806	1209	1370	1370	1370	1370	1370	1370	1370
Field Population				242	322	322	322	322	322	322
Population Change	403	806	1209	1612	1693	1693	1693	1693	1693	1693
Net change										
Prison population	305	610	954	1,115	1,115	1,115	1,115	1,115	1,115	1,115
Field population	-305	-610	-954	-810	-749	-749	-749	-749	-749	-749
Total Population				305	366	366	366	366	366	366

Total Impact

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
Prison	463	926	1,427	1,739	1,890	2,041	2,192	2,343	2,398	2,400
Field	-463	-926	-1,427	-1,431	-1,521	-1,521	-1,521	-1,573	-1,573	-1,573
Total				308	370	520	671	770	825	827
PSP Officers		-2.0	-8.0	-8.0	-12.0	-12.0	-12.0	-12.0	-12.0	-12.0

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

ASSUMPTION (continued)

The DOC cost of incarceration is \$17,003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

	# to/from prison	Cost per year	Total Costs for prison (includes 2% inflation)	Change in # of Probation & Parole Officers	Probation and Parole officers savings per year	Grand Total - Prison and Probation (includes and 2% inflation)	# of offenders to/from Probation and Parole
Year 1	463	(\$6,206)	(\$2,394,482)	0	\$0	(\$2,394,482)	(463)
Year 2	926	(\$6,206)	(\$5,861,691)	(2)	\$124,078	(\$5,737,613)	(926)
Year 3	1,427	(\$6,206)	(\$9,213,743)	(8)	\$501,663	(\$8,712,080)	(1,427)
Year 4	1,739	(\$6,206)	(\$11,452,805)	(8)	\$507,080	(\$10,945,725)	(1,438)
Year 5	1,890	(\$6,206)	(\$12,696,215)	(12)	\$768,830	(\$11,927,384)	(1,535)
Year 6	2,041	(\$6,206)	(\$13,984,780)	(12)	\$777,141	(\$13,207,639)	(1,535)
Year 7	2,192	(\$6,206)	(\$15,319,809)	(12)	\$785,569	(\$14,534,240)	(1,535)
Year 8	2,396	(\$6,206)	(\$17,080,469)	(12)	\$794,083	(\$16,286,386)	(1,587)
Year 9	2,398	(\$6,206)	(\$17,436,621)	(12)	\$802,683	(\$16,633,938)	(1,587)
Year 10	2,400	(\$6,206)	(\$17,800,187)	(12)	\$811,404	(\$16,988,783)	(1,587)

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 assault on a law enforcement officer, firefighter, 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 **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.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2026)
GENERAL REVENUE				
<u>Costs</u> - DOC - net of increase in prisoners and decrease in probationers and parolees from changes	<u>(\$2,394,482)</u>	<u>(\$5,737,613)</u>	<u>(\$8,712,080)</u>	<u>(\$16,286,386)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$2,394,482)</u>	<u>(\$5,737,613)</u>	<u>(\$8,712,080)</u>	<u>(\$16,286,386)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2026)
	<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. Persons convicted of resisting or interfering with arrest, detention, or stop are also ineligible for probation or parole.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Corrections
Office of the State Public Defender
Office of Prosecution Services
Office of the State Courts Administrator
Department of Public Safety - Missouri Highway Patrol

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope", with a stylized flourish at the end.

Acting Director
January 31, 2018