

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0661-01
Bill No.: SB 74
Subject: Probation and Parole; Prisons and Jails; Crimes and Punishment; Courts
Type: Original
Date: March 8, 2019

Bill Summary: This proposal modifies provisions relating to mandatory prison terms and eligibility for parole.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
General Revenue	\$0	\$0	\$0	\$2,170,875
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0	\$2,170,875

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
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 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
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 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
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 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§217.760 and 558.019 - Mandatory prison terms and eligibility for parole

Officials from the **Department of Corrections (DOC)** state this legislation allows courts the discretion to depart from the minimum prison term (MPT) as defined in §558.019 for offenders that are required to serve 40, 50, or 85 percent of their prison sentence because of prior incarcerations with the DOC or because of a dangerous felony conviction. The legislation will also grant a parole hearing at the discretion of the court for offenders not serving a sentence for 1st degree murder or a sex offense in Chapter 566. No impact is estimated, as the wording is appears vague in regard to who will be granted a parole hearing. Nearly all offenders serving no parole have convictions for 1st degree murder and the authority to grant parole remains with the Board of Parole.

1. Admissions of offenders required to serve a MPT that will be discretionary

In FY18, there were 1,866 new prison admissions with a MPT for an eligible offense who had a parole hearing in FY18 that set a presumptive parole date. It is not known the number of cases the courts will exercise discretion, but the DOC estimates the percentage will be similar to the discretion that the courts exercise in sentencing offenders as persistent offenders for prior felony convictions under section §558.016. In a prior study, the DOC found that the courts sentenced defendants as persistent offenders in only 21 percent of the cases. If the courts use discretion in not applying the MPT in 79 percent of the cases, it is estimated that 1,474 offenders will not be mandated a MPT. The estimate for dangerous felonies is restricted only to first-time offenders and excludes sex offenders because of the requirements for the Missouri Sexual Offender Program.

New admissions with parole hearings in FY18

Serving a minimum prison term, excluding sex offenses and offenders with three or more prior incarcerations

Minimum Prison Term	Count	Courts	Courts	Average Sentence (years)
		will mandate MPT	will not mandate MPT	
40%	1,150	242	909	5.6
50%	511	107	404	5.8
85%, no prior incarcerations	205	43	162	14.0
Total	1,866	392	1,474	3.1

ASSUMPTION (continued)

2. Time Served by the Board of Probation and Parole

The parole board has discretion to set the parole date, and it uses a risk assessment and guideline to advise on the release date when not mandated by the MPT or other no-parole restrictions. The estimate of how many of the 1,474 offenders will receive a shorter prison stay is based upon the calculation of how many had a guideline date less than the MPT date and who the parole board set a release date on the MPT date. For offenders with short sentences and who have earned time credits in jail prior to admission, many have guideline dates that are on or before 90 days after prison admission. Because of the time constraints in completing the parole hearing and the release arrangements, most of these offenders are released over guideline, and it is unrealistic to expect that such offenders with a MPT could be released much earlier. These offenders are called ASAP and are excluded from the eligible population, as well as those offenders who the parole board set a release date beyond the MPT date. Of the 1,759 new admissions with an eligible MPT, it is estimated that 560 or 31.8 percent could be released earlier (560 / 1,759 = .318).

**New admissions with a parole hearing in FY18
 MPT offenders likely to be released on the guideline date**

MPT	Courts will mandate MPT 21%	Courts will not mandate MPT (79%)			Releases Decisions	Percent Released on MPT date not ASAP
		Release date is the MPT date and not ASAP	Guideline date is less than 90 days from Admission (ASAP)	Release date is after the MPT date		
40%	242	333	70	506	1,150	29.0%
50%	107	182	36	185	511	35.7%
85%, no prior incarcerations	43	44	-	118	205	21.6%
Total	363	560	106	730	1,759	31.8%

3. Reduction in time served

The expected reduction in time served by the 560 offenders is the difference between the MPT stay (3.0 years) and the average guideline stay (2.2 years). The guideline stay is the board guideline for offenders which is associated with the sentence length, the offense, and the salient factor risk assessment of the offender. In addition to the time to first release, the DOC is also including an estimate for time served as a parole violator (35 percent of the parole time after first release). The parole violator percentage is calculated from an examination of the incarceration rates of offenders serving prison sentences who were discharged either from prison or parole in FY18.

ASSUMPTION (continued)

**Average time served serving a MPT and the guideline term
 MPT offenders likely to be released on the guideline date**

MPT	Released on MPT (not ASAP)	Average Sentence (years)	Average MPT (years)	Average Guideline/ Conditional Release (years)	Guideline Percent Served	Reduction in time to first release (years)	Increase in parole recidivism (years)	Net reduction in time served (years)	Total reduction in prison population	Reduction after 10 years
40%	333	5.6	2.1	1.5	26%	0.6	0.2	0.4	144	144
50%	182	5.8	2.6	1.7	29%	0.9	0.4	0.5	110	110
85%, no prior incarcerations	44	14.3	12.2	9.6	67%	2.6	1.0	1.5	85	65
Total	560	6.4	3.0	2.2	34%	0.9	0.4	0.5	339	319

The full impact is estimated to be a reduction in the prison population of 339. Because of the long sentences of many of the dangerous felons, not all of the decrease in the prison population is expected to occur within the ten years of the budget horizon (40).

4. Impact in the ten years of the budget horizon

The reduction in the prison population is estimated to occur after FY23 when the offenders will be released after the shorter time served. In FY23, the prison population is expected to be reduced by 212 and by 319 in FY24. There will be an offsetting increase in the parole population.

Change in prison admissions and probation openings with legislation

	FY 2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029
New Admissions										
Current Law	531	531	531	531	531	531	531	531	531	531
After Legislation	531	531	531	531	531	531	531	531	531	531
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	0	0	0	0	0	0	0	0	0	0
Probations	0	0	0	0	0	0	0	0	0	0
Cumulative Populations										
Prison				-212	-319	-319	-319	-319	-319	-319
Parole				212	319	319	319	319	319	319
Probation										
Impact										
Prison Population				-212	-319	-319	-319	-319	-319	-319
Field Population				212	319	319	319	319	319	319
Population Change										
P&P Officers + or -		0	0	0	0	0	0	0	0	0

ASSUMPTION (continued)

If this impact statement has changed from statements submitted in previous years, it is because the 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 2019 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.

The DOC cost of incarceration is \$17.003 per day or an annual cost of \$6,287 per offender. The DOC cost of probation or parole is determined by the number of Probation and Parole Officer II positions that would be needed to cover the new caseload.

	fewer # in prison	Cost per year	Total Savings for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	0	(\$6,287)	\$0	0	absorbed	\$0	\$0
Year 2	0	(\$6,287)	\$0	0	absorbed	\$0	\$0
Year 3	0	(\$6,287)	\$0	0	absorbed	\$0	\$0
Year 4	-212	(\$6,287)	\$1,414,425	212	absorbed	\$0	\$1,414,425
Year 5	-319	(\$6,287)	\$2,170,875	319	absorbed	\$0	\$2,170,875
Year 6	-319	(\$6,287)	\$2,214,291	319	absorbed	\$0	\$2,214,291
Year 7	-319	(\$6,287)	\$2,258,578	319	absorbed	\$0	\$2,258,578
Year 8	-319	(\$6,287)	\$2,303,750	319	absorbed	\$0	\$2,303,750
Year 9	-319	(\$6,287)	\$2,349,825	319	absorbed	\$0	\$2,349,825
Year 10	-319	(\$6,287)	\$2,396,821	319	absorbed	\$0	\$2,396,821

ASSUMPTION (continued)

Oversight notes that the **Office of State Courts Administrator** has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2024)
---------------------------------------------------	---------------------	---------	---------	-----------------------------------

**GENERAL
REVENUE FUND**

Savings - DOC
 (§558.019)

Decreased incarceration costs	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$2,170,875</u>
----------------------------------	------------	------------	------------	--------------------

**ESTIMATED NET
EFFECT ON THE
GENERAL
REVENUE FUND**

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$2,170,875</u>
--	------------	------------	------------	--------------------

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2024)
---------------------------------------------------	---------------------	---------	---------	-----------------------------------

	<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

Under current law certain offenders must serve a specified mandatory minimum percentage of their sentences. This act makes such minimum sentences at the discretion of the sentencing court.

FISCAL DESCRIPTION (continued)

Additionally, this act specifies that any offender, except for an offender who was found guilty of first degree murder or certain sex offenses, who meets specified qualifications is eligible for a parole hearing.

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 State Courts Administrator



Kyle Rieman
Director
March 8, 2019

Ross Strobe
Assistant Director
March 8, 2019