

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2108-01
Bill No.: SB 433
Subject: Crimes and Punishment; Courts; Law Enforcement Officers and Agencies
Type: Original
Date: March 29, 2019

Bill Summary: This proposal creates the offense of vehicle hijacking.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2024)
General Revenue	(Less than \$110,478)	(Less than \$125,651)	(Less than \$139,246)	(Less than \$168,053)
Total Estimated Net Effect on General Revenue	(Less than \$110,478)	(Less than \$125,651)	(Less than \$139,246)	(Less than \$168,053)

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 7 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

§§556.061 and 570.027 - Vehicle hijacking

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of vehicle-hijacking, a new class B felony. If the person is armed or if a child or special victim is a victim, the charge is escalated to a class A felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In Fiscal Year 2018, SPD's Trial Division opened 4,404 cases under charge code 570.030 (Theft/Stealing) of the 63,395 total cases opened. As this is a newly defined crime, the SPD does not have any statistics relating to the number of possible cases.

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 notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the proposed legislation creates the offense of vehicle hijacking when a person knowingly uses or explicitly or implicitly threatens the use of physical force upon another person or persons to seize or attempt to seize possession or control of a vehicle from the immediate possession or control of another person or persons.

When classified as an A felony, the offense is defined as a dangerous felony under section 556.061, RSMo, and therefore, not subject to parole prior to 85 percent of the sentence being served.

There is an existing charge of 1st degree robbery (570.023). In FY18, there were two robbery admissions to prison and ten to probation involving vehicle theft with a deadly weapon or strong arm action resulting in injury. This is similar to the new charge of vehicle hijacking. The new charge differs from the robbery charge by not requiring physical injury or a weapon but includes implicit and explicit threat in the basic class B charge with increase to a class A charge with special victims, weapons, or injury. There currently is not a class B felony involving vehicle hijacking. If a current automobile theft does not meet 1st degree robbery, vehicle hijacking, then it would be included in the general class D car theft offense.

In FY18, there were 135 admissions to prison and 250 to probation for car theft. If one percent of this population commits the theft while the lawful user is in possession of the vehicle, they can be charged with the proposed hijacking felony.

In FY18, the average sentence for new class B offenses was 6.8 years with 4.14 being served until first release. Those who were sentenced to probation served 4.5 years.

	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	3	3	3	3	3	3	3	3	3	3
Cumulative Populations										
Prison	2	4	6	8	10	10	10	10	10	10
Parole						2	3	3	3	3
Probation	3	6	9	12	14	14	14	14	14	14
Impact										
Prison Population	2	4	6	8	10	10	10	10	10	10
Field Population	3	6	9	12	14	15	17	17	17	17
Population Change	5	10	15	20	24	26	27	27	27	27
P&P Officers + or -		0	0	0	0	0	0	0	0	0

ASSUMPTION (continued)

	# to prison	Cost per year	Total Costs 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	2	(\$6,287)	(\$10,478)	3	absorbed	\$0	(\$10,478)
Year 2	4	(\$6,287)	(\$25,651)	6	absorbed	\$0	(\$25,651)
Year 3	6	(\$6,287)	(\$39,246)	9	absorbed	\$0	(\$39,246)
Year 4	8	(\$6,287)	(\$53,375)	12	absorbed	\$0	(\$53,375)
Year 5	10	(\$6,287)	(\$68,053)	14	absorbed	\$0	(\$68,053)
Year 6	10	(\$6,287)	(\$69,414)	15	absorbed	\$0	(\$69,414)
Year 7	10	(\$6,287)	(\$70,802)	17	absorbed	\$0	(\$70,802)
Year 8	10	(\$6,287)	(\$72,218)	17	absorbed	\$0	(\$72,218)
Year 9	10	(\$6,287)	(\$73,662)	17	absorbed	\$0	(\$73,662)
Year 10	10	(\$6,287)	(\$75,135)	17	absorbed	\$0	(\$75,135)

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

Oversight notes that the **Department of Public Safety - Missouri State Highway Patrol, Missouri Office of Prosecution Services, Office of State Courts Administrator, Joplin Police Department, Springfield Police Department, St. Louis County Police Department** and **St. Louis County Department of Justice Services** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other police and sheriffs' departments were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2024)
GENERAL REVENUE FUND				
<u>Costs - SPD</u> (§§556.061 and 570.027) Salaries, fringe benefits, and equipment and expense				
	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs - DOC</u> (§§556.061 and 570.027) Increased incarceration costs				
	<u>(\$10,478)</u>	<u>(\$25,651)</u>	<u>(\$39,246)</u>	<u>(\$68,053)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Less than \$110,478)</u>	<u>(Less than \$125,651)</u>	<u>(Less than \$139,246)</u>	<u>(Less than \$168,053)</u>
<u>FISCAL IMPACT - 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

This act creates the offense of vehicle hijacking, which is committed when an individual knowingly uses or threatens the use of physical force upon another individual to seize or attempt to seize possession or control of a vehicle. This offense is punished as a Class B felony unless one of the aggravating circumstances listed in the act was present during the commission of the offense, in which case it is punished as a Class A felony. Also, the definition of dangerous felony is modified to include the offense of vehicle hijacking when punished as a Class A felony.

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
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
Joplin Police Department
Springfield Police Department
St. Louis County Police Department
St. Louis County Department of Justice Services

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March 29, 2019



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