

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3286-01
Bill No.: SB 638
Subject: Crimes and Punishment; Children and Minors; Sexual Offenses
Type: #Updated
Date: February 5, 2020
 # Updated to reflect a revised response from the Department of Corrections

Bill Summary: This proposal prohibits certain offenders of sex crimes from being near athletic facilities used primarily by children.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
#General Revenue	(Less than \$121,287)	(Less than \$152,110)	(Less than \$173,084)
#Total Estimated Net Effect on General Revenue	(Less than \$121,287)	(Less than \$152,110)	(Less than \$173,084)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>Other</u> State Funds	\$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 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
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 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§566.150 - Offenders of sex crimes not to be near facilities used by children

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 being within 500 feet of an athletic complex or field used for children's recreation, a new class E felony for the first offense; subsequent violations would be a new class D felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In Fiscal Year 2019, SPD's Trial Division opened 22 cases under charge code 566.150 of the 62,002 total cases opened.

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 \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed with 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)** assume §568.045, endangering the welfare of a child in the first degree, is relating to sex offenders only in this particular legislation.

#Officials from the DOC submitted a revised response to this bill. DOC stated their research unit determined there would be an impact under the class D felony as well. Therefore, we added the impact of the E felony and D felony combined.

#For each new non-violent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a non-violent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

#

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

#For each new non-violent class D felony, the department estimates three people will be sentenced to prison and five to probation. The average sentence for a non-violent class D felony offense is 5 years, of which 2.8 years will be served in prison with 1.7 years to first release. The remaining 2.2 years will be on parole. Probation sentences will be 3 years.

ASSUMPTION (continued)

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Change in prison admissions and probation openings with legislation-Class D Felony (nonviolent)

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	5	5	5	5	5	5	5	5	5	5
Cumulative Populations										
Prison	3	6	9	9	9	9	9	9	9	9
Parole			0	3	6	6	6	6	6	6
Probation	5	10	15	15	15	15	15	15	15	15
Impact										
Prison Population	3	6	9	9	9	9	9	9	9	9
Field Population	5	10	15	18	21	21	21	21	21	21
Population Change	8	16	24	27	30	30	30	30	30	30

#The cumulative impact on the department is estimated to be 11 additional offenders in prison and 22 on field supervision by FY 2023.

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Cumulative Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
First Violation, Felony Class E										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
2nd or subsequent violation, Felony Class D										
Prison Population	3	6	9	9	9	9	9	9	9	9
Field Population	5	10	15	18	21	21	21	21	21	21
Prison Population	4	8	11	11	11	11	11	11	11	11
Field Population	7	14	22	25	28	28	28	28	28	28
Population Change	11	22	33	36	39	39	39	39	39	39

ASSUMPTION (continued)

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	# 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	4	(\$6,386)	(\$21,287)	7	absorbed	\$0	(\$21,287)
Year 2	8	(\$6,386)	(\$52,110)	14	absorbed	\$0	(\$52,110)
Year 3	11	(\$6,386)	(\$73,084)	22	absorbed	\$0	(\$73,084)
Year 4	11	(\$6,386)	(\$74,546)	25	absorbed	\$0	(\$74,546)
Year 5	11	(\$6,386)	(\$76,037)	28	absorbed	\$0	(\$76,037)
Year 6	11	(\$6,386)	(\$77,557)	28	absorbed	\$0	(\$77,557)
Year 7	11	(\$6,386)	(\$79,108)	28	absorbed	\$0	(\$79,108)
Year 8	11	(\$6,386)	(\$80,691)	28	absorbed	\$0	(\$80,691)
Year 9	11	(\$6,386)	(\$82,304)	28	absorbed	\$0	(\$82,304)
Year 10	11	(\$6,386)	(\$83,950)	28	absorbed	\$0	(\$83,950)

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 2019, 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 2020 fiscal notes. 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 would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. 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. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 44 probation and parole districts.

The DOC cost of incarceration is \$17.496 per day or an annual cost of \$6,386 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.

ASSUMPTION (continued)

Oversight does not have any information contrary to that provided by DOC. Oversight will range DOC's costs from \$0 to the amount provided.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS.

Oversight notes the **Department of Public Safety - Missouri State Highway Patrol**, the **Office of State Courts Administrator**, the **Boone County Sheriff's Department**, the **Springfield Police Department**, the **St. Louis County Police Department**, and the **St. Louis County Department of Justice Services** have each stated the proposal would not have a direct fiscal impact on their respective 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 sheriff's departments were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE FUND			
<u>Costs - SPD (\$566.150) Salaries, fringe benefits, and equipment and expense</u>	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>#Costs - DOC (\$566.150) Increase in incarceration costs</u>	<u>(\$21,287)</u>	<u>(\$52,110)</u>	<u>(\$73,084)</u>
#ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Less than \$121,287)</u>	<u>(Less than \$152,110)</u>	<u>(Less than \$173,084)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<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 guilty of certain sex crimes cannot be present or loiter within five hundred feet of athletic complexes or athletic fields that exist primarily for use and recreation of children.

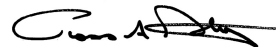
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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
Boone County Sheriff's Department
Springfield Police Department
St. Louis County Police Department
St. Louis County Department of Justice Services



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