

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3454-07
Bill No.: SCS for SB Nos. 602, 778, & 561
Subject: Courts; Courts, Juvenile; Attorney General; Crimes and Punishment; Criminal Procedure; Department of Corrections; Probation and Parole; Firearms; Evidence; Law Enforcement Officers and Agencies; Prisons and Jails
Type: Original
Date: March 6, 2020

Bill Summary: This proposal modifies provisions regarding criminal offenses.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
General Revenue*	(\$526,414 to Unknown)	(\$1,146,327 to Unknown)	(\$1,704,597 to Unknown)	(\$6,006,268 to Unknown)
Total Estimated Net Effect on General Revenue*	(\$526,414 to Unknown)	(\$1,146,327 to Unknown)	(\$1,704,597 to Unknown)	(\$6,006,268 to Unknown)

*Officials from the Department of Corrections assume a **significant fiscal impact** past the ten-year reporting timeframe from changes to §571.015 regarding prison terms for armed criminal action.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
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 17 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
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 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
General Revenue	(2) FTE	(4) FTE	(6) FTE	(5) FTE
Total Estimated Net Effect on FTE	(2) FTE	(4) FTE	(6) FTE	(5) FTE

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	Fully Implemented (FY 2030)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§211.071, 211.071, 217.850, 545.140, 556.061, 557.021, 557.045, 562.014, 570.027, 571.015, 571.070, 577.800, 578.419, 578.421, 578.423, 578.425, and 632.460 - Criminal offenses

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 crimes of conspiracy to commit an offense, a new class C felony or offenses relating to the unlawful use of an unmanned aircraft near a correctional center, a mental hospital, or an open air facility, new class B or D felonies or charged with the new specified crime of vehicle hijacking a new B felony. Vehicle hijacking could escalate to a new class B felony if a child or special victim is a victim. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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 the following:

Section 211.071

This section requires a court having jurisdiction over a juvenile offender alleged to have committed the offense, hold a certification hearing in order to determine whether the juvenile should be tried as an adult. Presumably, more juvenile certification hearings will result in more juvenile offenders tried and sentenced as adults. The actual impact of section 211.071.1 is difficult to determine as it is unknown how many juveniles will be found guilty and sentenced to a term of adult incarceration for this offense; therefore, the DOC anticipates an (Unknown) impact.

Section 557.045

This is similar to FN 3178-03 which intends to prohibit the eligibility of probation, suspended imposition or execution of sentence, or conditional release for convictions of second-degree murder and convictions of dangerous felonies for people with associated armed criminal action or prior dangerous or class A or class B felony offenses.

Murder 2nd Degree

In FY 2019, there were 110 new admissions for 2nd degree murders under class A felony, with an average sentence of 21.8 years and 17.6 years as a time for first release. There were four new probations with an average term of 4.5 years.

After changes in this bill, no offenders convicted of second degree murder will be sentenced to probation or receive SIS, SES, or CR, and all offenders will serve their full sentence prior to release from prison. The cumulative impact over the 10-year scope of these changes could be 40 new admissions to prison and 18 fewer field supervisions cases in FY 2030.

ASSUMPTION (continued)

Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
New Admissions										
Current Law	110	110	110	110	110	110	110	110	110	110
After Legislation	114	114	114	114	114	114	114	114	114	114
Probation										
Current Law	4	4	4	4	4	4	4	4	4	4
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	-4	-4	-4	-4	-4	-4	-4	-4	-4	-4
Cumulative Populations										
Prison	4	8	12	16	20	24	28	32	36	40
Parole										
Probation	-4	-8	-12	-16	-18	-18	-18	-18	-18	-18
Impact										
Prison Population	4	8	12	16	20	24	28	32	36	40
Field Population	-4	-8	-12	-16	-18	-18	-18	-18	-18	-18
Population Change					2	6	10	14	18	22

Dangerous Felony and ACA

In FY 2019, there were 478 new admissions to prison associated with a dangerous felony sentence, with an average sentence of 14.0 years. Offenders with dangerous felony sentences who were released from prison for the first time in FY 2019 served, on average, 82% of their sentence prior to first release. As per this legislation, the prison term will be 100% of the length of the sentence for those offenders who have prior dangerous felony convictions.

Out of the 478 new prison admissions in FY 2019,

- 50 had both an armed criminal action charge associated with their FY 2019 admission to prison and a prior conviction for either a dangerous felony or a class A or class B felony.
- 46 had a prior conviction for either a dangerous felony or a class A or class B felony and did not have an armed criminal action charge associated with their FY 2019 admission to prison.
- 292 had an armed criminal action charge associated with their FY 2019 admission to prison and no prior conviction for either a dangerous felony or a class A or class B felony.

This legislation proposes that these 388 offenders will serve their entire sentence in prison. Therefore, we estimate that they will serve 14.0 years in prison instead of the 82% average to first release. Because of long-term sentence, the impact will not be observable within the 10-year scope of this note; however, DOC estimates that by the year 2034, there will be an addition of 660 new offenders in prison with an equivalent number of reductions in field population.

ASSUMPTION (continued)

Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
New Admissions										
Current Law	388	388	388	388	388	388	388	388	388	388
After Legislation	388	388	388	388	388	388	388	388	388	388
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										
Parole										
Probation										
Impact										
Prison Population										
Field Population										
Population Change										

In FY 2019, there were 191 new court probations for dangerous felonies and ACA convictions, with an average sentence of 8.1 years. As per the proposed legislation, offenders with a prior conviction for either a dangerous felony or a class A or class B felony, or offenders with an armed criminal action charge associated with their FY 2019 probation case, will no longer be eligible for probation and their prison term will be 100% of the length of their sentence.

Out of the 191 new probation cases in FY 2019,

- 8 had both an armed criminal action charge associated with their FY 2019 admission to prison and a prior conviction for either a dangerous felony or a class A or class B felony.
- 85 had a prior conviction for either a dangerous felony or a class A or class B felony and did not have an armed criminal action charge associated with their FY 2019 admission to prison.
- 1 had an armed criminal action charge associated with their FY 2019 admission to prison and no prior conviction for either a dangerous felony or a class A or class B felony.

As per the proposed changes, these 94 offenders will be sentenced to prison rather than probation and serve sentences of 8.1 years. The cumulative impact of these changes could be 761 new admissions to prison and 282 fewer field supervisions cases in FY 2029.

ASSUMPTION (continued)

Change in prison admissions and probation openings with legislation

	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	94	94	94	94	94	94	94	94	94	94
Probation										
Current Law	191	191	191	191	191	191	191	191	191	191
After Legislation	97	97	97	97	97	97	97	97	97	97
Change (After Legislation - Current Law)										
Admissions	94	94	94	94	94	94	94	94	94	94
Probations	-94	-94	-94	-94	-94	-94	-94	-94	-94	-94
Cumulative Populations										
Prison	94	188	282	376	470	564	658	752	761	761
Parole										
Probation	-94	-188	-282	-282	-282	-282	-282	-282	-282	-282
Impact										
Prison Population	94	188	282	376	470	564	658	752	761	761
Field Population	-94	-188	-282	-282	-282	-282	-282	-282	-282	-282
Population Change				94	188	282	376	470	479	479

Combined Impact

Although the estimated impact of this bill is nearly double what is presented here when projected over a longer time period, the combined impact of proposed changes could be an additional 801 offenders in prison and 300 fewer offenders under supervision in the field by FY 2030.

Section 570.027

Creates the offense of vehicle hijacking as a new class B felony offense. For each new class B felony, the department estimates three people will be sentenced to prison and four to probation. The average sentence for a class B felony offense is 8.7 years, of which 5.1 years will be served in prison with 3.4 years to first release. The remaining 3.6 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 15 additional offenders in prison and 12 on field supervision by FY 2025.

Section 571.015

The section increases imprisonment terms for offenders with ACA crimes and eliminates the eligibility for probation, parole, CR, SIS, or SES and requires sentences for ACA to be served consecutively. This legislation does not create any new criminal offenses, it increases criminal penalties for existing offenses. Because of this fact there is no projected fiscal impact within the ten-year timeframe for fiscal note responses. However, the department does anticipate **significant fiscal impact** past the ten-year reporting timeframe.

ASSUMPTION (continued)

Section 571.070

This section enhances the felony class of unlawful possession of a firearm from a class D felony to a class C felony for offenders also convicted of a dangerous felony.

In FY 2019, there were 85 new admissions under section 571.070 for a class D felony, with an average sentence of 5.0 years, and 2.1 years for the first release. There were 246 sentences to either probation or 120 days, with an average term of 4.4 years.

Out of these offenders, nine were also convicted of dangerous felony. None was convicted of drug trafficking. All of these offenses are either a class A, B or U felony charges, higher than a class C felony. Thus, these offenders are already serving longer sentences than that for a Class C felony. Changing a class D to a class C felony will result in a longer stay, only if these sentences are consecutive instead of concurrent, which is not the case and is not addressed in this bill.

Nevertheless, assuming a consecutive sentence of class C felony for unlawful firearm possession, these nine offenders will now be charged under class C felony. The average sentence for a new class C felony is 6.9 years, of which 3.7 years will be served in prison with 2.1 years to first release. The remaining 3.2 years will be on parole. Probation sentences will be 3 years.

The cumulative impact, assuming nine new admissions and no new probations, will be six new prison admissions and (6) new field supervisions by FY2024.

Sections 578.419, 578.421, 578.423, and 578.425

The portion of the bill changes the punishment for criminal gang activity from, imprisonment in the county jail for a period not to exceed one year, or by imprisonment in a state correctional facility for one, two, or three years, to a class B felony, under section 578.423.

Under section 578.425, additional sentence, at the court's discretion, for being a gang member, is set as 3 years in addition to conviction for felony crime and 4 years when the crime is committed within one thousand feet of a public or private elementary, vocational, junior high or high school. The overall impact of this bill is to increase the imprisonment length for criminal street gang related activities, however, the data available is not sufficient to determine the actual impact of this change, as in FY 2019 no one was charged under sections 578.423 and 578.425 for gang related activities. In FY 2020 so far, there is only one conviction, under section 578.423. Although the impact of changes will result in longer and harsher prison sentences, due to infrequent number of occurrences and scarce data, the DOC can potentially state no foreseen significant fiscal impact by the changes proposed in this bill.

ASSUMPTION (continued)

Total Estimated Cumulative Impact

The total estimated cumulative impact of this legislative proposal over the next 10 years is an increase of 822 people in prison and a decrease of 266 people under supervision by FY 2030.

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total savings for probation and parole	# to Probation and Parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	101	(\$6,386)	(\$537,488)	(3)	\$111,074	(94)	(\$426,414)
Year 2	202	(\$6,386)	(\$1,315,771)	(4)	\$269,444	(188)	(\$1,046,327)
Year 3	303	(\$6,386)	(\$2,013,130)	(6)	\$408,533	(282)	(\$1,604,598)
Year 4	410	(\$6,386)	(\$2,778,518)	(6)	\$412,943	(292)	(\$2,365,575)
Year 5	511	(\$6,386)	(\$3,532,242)	(6)	\$417,408	(294)	(\$3,114,834)
Year 6	609	(\$6,386)	(\$4,293,852)	(6)	\$421,925	(282)	(\$3,871,927)
Year 7	707	(\$6,386)	(\$5,084,513)	(5)	\$355,419	(271)	(\$4,729,094)
Year 8	805	(\$6,386)	(\$5,905,083)	(5)	\$359,272	(268)	(\$5,545,811)
Year 9	818	(\$6,386)	(\$6,120,453)	(5)	\$363,178	(266)	(\$5,757,276)
Year 10	822	(\$6,386)	(\$6,273,390)	(5)	\$367,122	(266)	(\$5,906,268)

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.

ASSUMPTION (continued)

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.

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

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

Oversight notes the **Attorney General's Office**, the **Department of Commerce and Insurance**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Public Safety - (Fire Safety and Missouri State Highway Patrol)**, and the **Department of Social Services**, the **Department of Transportation**, the **Office of State Courts Administrator**, the **St. Louis County Department of Justice Services**, the **St. Louis County Police Department**, the **Springfield Police Department**, and the **Metropolitan St. Louis Sewer District** 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, the City of St. Louis, St. Louis County, Jackson County, county prosecutors, police and sheriff's departments, EMS, utilities and the St. Louis Region Convention Center 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 -</u> <u>State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2030)
GENERAL REVENUE FUND				
<u>Savings - DOC -</u> Fewer P&P Officers				
Personal Service	\$64,588	\$156,560	\$237,192	\$211,915
Fringe Benefits	\$40,700	\$98,656	\$149,465	\$133,538
Equipment and Expense	<u>\$5,786</u>	<u>\$14,228</u>	<u>\$21,876</u>	<u>\$21,669</u>
<u>Total Savings - DOC</u>	<u>\$111,074</u>	<u>\$269,444</u>	<u>\$408,533</u>	<u>\$367,122</u>
FTE Change - DOC	(2) FTE	(4) FTE	(6) FTE	(5) FTE
 <u>Costs - DOC</u> \$211.071				
	(Unknown)	(Unknown)	(Unknown)	(Unknown)
 <u>Costs - DOC</u> Increased incarceration costs				
	(\$537,488)	(\$1,315,771)	(\$2,013,130)	(\$6,273,390)
 Costs - SPD Salaries, fringe benefits, and equipment and expense				
	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
 ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND				
	<u>(\$526,414 to Unknown)</u>	<u>(\$1,146,327 to Unknown)</u>	<u>(\$1,704,597 to Unknown)</u>	<u>(\$6,006,268 to Unknown)</u>
 Estimated Net FTE Change for the General Revenue Fund				
	(2) FTE	(4) FTE	(6) FTE	(5) FTE

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2030)
	<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 modifies provisions relating to criminal offenses.

CERTIFICATION OF A JUVENILE (Section 211.071)

Under this act, beginning January 1, 2021, if a person is charged with the offense of vehicle hijacking and is between the ages of 12 and 18, then a mandatory hearing is conducted to determine if the case shall proceed in a juvenile court or a court of general jurisdiction.

These provisions are similar to SB 561 (2020).

OFFENSE OF UNLAWFUL USE OF UNMANNED AIRCRAFT OVER A CORRECTIONAL CENTER (SECTION 217.850)

Under this act, a person commits the offense of unlawful use of unmanned aircraft over a correctional center if he or she purposely:

- Operates an unmanned aircraft within a vertical distance of 300 feet over a correctional center's secure perimeter fence; or
- Allows an unmanned aircraft to make contact with a correctional center, including any person or object on the premises of or within the facility.

The act sets forth exceptions to when use of an unmanned aircraft over a correctional center shall not be prohibited.

The offense of unlawful use of an unmanned aircraft over a correctional center is punishable as an infraction unless the person using the unmanned aircraft is:

FISCAL DESCRIPTION (continued)

- Delivering a gun, knife, weapon, or other article that can be used to endanger the life of an offender or correctional center employee, in which case the offense is a class B felony;
- Facilitating an escape from confinement, in which case the offense is a Class C felony; or
- Delivering a controlled substance, in which case the offense is a Class D felony.

These provisions are identical to SB 778 (2020).

OFFENSE OF CONSPIRACY (Sections 545.140, 557.021, AND 562.014)

Under this act, if two or more defendants are charged with being joint participants in a conspiracy, it is presumed there is no substantial prejudice in charging both defendants in the same indictment or being tried together.

Under current law, guilt for an offense may be based upon a conspiracy to commit an offense when a person, with the purpose of promoting the commission of the offense, agrees with another person that they will engage in conduct to commit the offense. A person cannot be convicted of an offense based upon a conspiracy to commit the offense unless he or she committed an overt act.

This act modifies provisions regarding conspiracy to create the offense of conspiracy if a person agrees, with one or more persons, to commit any Class A, B, or C felonies, or any unclassified felonies that exceed 10 years of imprisonment, and one or more persons do any act in furtherance of the agreement. The offense of conspiracy to commit an offense is a class C felony.

Additionally, this act repeals the provisions barring a person from being charged, convicted, or sentenced for both the offense of conspiracy and the actual offense.

These provisions are identical to SS/SB 600 (2020).

DEFINITION OF DANGEROUS FELONY (Section 556.061)

This act adds to the definition of "dangerous felony" the offense of armed criminal action, the offense of conspiracy to commit an offense when the offense is a dangerous felony, and the offense of vehicle hijacking when punished as a Class A felony.

This provision is identical to SS/SB 600 (2020).

FISCAL DESCRIPTION (continued)

OFFENSES NOT ELIGIBLE FOR PROBATION (Section 557.045)

This act provides that any person found guilty of, or pleading guilty to: the offense of second degree murder when the person knowingly causes the death of another person or, with the purpose of causing serious physical injury to another person, causes the death of another person; any dangerous felony involving a deadly weapon; or any dangerous felony where the person has been previously found guilty of a Class A or B felony or a dangerous felony shall not be eligible for probation, suspended imposition or execution of sentence, or a conditional release term, and shall be sentenced to a term of imprisonment.

These provisions are identical to SS/SB 600 (2020).

OFFENSE OF VEHICLE HIJACKING (Section 570.027)

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.

These provisions are identical to SS/SB 600 (2020) and SB 561 (2020) and similar to SB 433 (2019) and SB 459 (2019).

OFFENSE OF ARMED CRIMINAL ACTION (Section 571.015)

Under current law, a person who commits the offense of armed criminal action is subject to a term of imprisonment of not less than 3 years for the first offense, 5 years for the second offense, and 10 years for any subsequent offense, in addition to any punishment for the crime committed by, with, or through the use of a deadly weapon.

This act changes the prison term for this offense to 3 to 15 years for the first offense, 5 to 30 years for the second offense, and at least 10 years for any subsequent offense. These prison terms shall be served in addition to and consecutive to any punishment for the crime committed with the use of a deadly weapon. Additionally, this act provides that if the person convicted of armed criminal action is unlawfully possessing a firearm, the minimum prison term for the first offense is 5 years, the second offense is 10 years, and the third offense is 15 years.

No person convicted for the offense of armed criminal action shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for the minimum period of imprisonment.

These provisions are identical to SS/SB 600 (2020) and similar to SB 601 (2020) and HB 1453 (2020).

FISCAL DESCRIPTION (continued)

UNLAWFUL POSSESSION OF A FIREARM (Section 571.070)

Under current law, the offense of unlawful possession of a firearm is a Class D felony. This act increases the penalty for unlawful possession of a firearm by a person convicted of a dangerous felony to a Class C felony.

These provisions are identical to SS/SB 600 (2020) and similar to SB 538 (2020).

OFFENSE OF UNLAWFUL USE OF UNMANNED AIRCRAFT OVER AN OPEN AIR FACILITY (SECTION 577.800)

A person commits the offense of unlawful use of unmanned aircraft over an open air facility if he or she:

- Operates an unmanned aircraft within a vertical distance of 300 feet from the ground and within the property line of an open air facility; or
- Uses an unmanned aircraft with the purpose of delivering to a person within an open air facility a gun, knife, weapon, or other dangerous article or a controlled substance.

The act sets forth exceptions to when use of an unmanned aircraft over an open air facility shall not be prohibited.

The offense of unlawful use of an unmanned aircraft over an open air facility is punishable as an infraction unless the person using the unmanned aircraft is:

- Delivering a gun, knife, weapon, or other article that can be used to endanger the life of an offender or correctional center employee, in which case the offense is a class B felony; or
- Delivering a controlled substance, in which case the offense is a class D felony.

These provisions are substantially similar to SB 778 (2020).

CRIMINAL STREET GANGS (SECTIONS 578.419 TO 578.425)

This act establishes the "Missouri Criminal Street Gangs Prevention Act". The act modifies the definition of a "criminal street gang" by defining such an organization to have as one of its motivating, rather than primary, activities the commission of one or more criminal acts. The definition of "pattern of criminal street gang activity" is modified to include "dangerous felony" as one of the offenses that would constitute a pattern.

FISCAL DESCRIPTION (continued)

Currently, any person who actively participates in any criminal street gang with knowledge that its members engage in a pattern of criminal street gang activity and who willfully promotes such criminal conduct shall be punished by one year in the county jail or one to three years of imprisonment in a state correctional facility. This act provides that such a person who actively participates in any criminal street gang that engages in a pattern of criminal conduct shall be guilty of a class B felony.

Further, this act changes the mental state and penalty for any person who is convicted of a felony or misdemeanor which is committed for the benefit of, at the direction of, or in association with, a criminal street gang. This act provides that such action must be with the purpose, rather than specific intent, to promote, further, or assist in any criminal conduct by gang members. The act repeals the applicability of this provision to a misdemeanor.

A person convicted under this act shall serve a term in addition and consecutive to the punishment for the felony conviction a term of two years, unless the felony is committed within one thousand feet of a school then the term shall be three years. Finally, if a person is convicted of a dangerous felony under this act, he or she shall be punished by an additional 5 years.

These provisions are identical to SS/SB 600 (2020).

OFFENSE OF UNLAWFUL USE OF UNMANNED AIRCRAFT OVER A MENTAL HEALTH HOSPITAL (SECTION 632.460)

A person commits the offense of unlawful use of unmanned aircraft over a mental health hospital if he or she purposely;

- Operates an unmanned aircraft within a vertical distance of 300 feet over the mental health hospital's property line; or
- Uses an unmanned aircraft to deliver to a person confined in a mental health hospital a gun, knife, weapon, or other dangerous article or a controlled substance.

The act sets forth exceptions to when use of an unmanned aircraft over a mental health hospital shall not be prohibited.

The offense of unlawful use of an unmanned aircraft over a mental health hospital is punishable as an infraction unless the person using the unmanned aircraft is:

FISCAL DESCRIPTION (continued)

- Delivering a gun, knife, weapon, or other article that can be used to endanger the life of an offender or correctional center employee, in which case the offense is a Class B felony;
- Facilitating an escape from confinement, in which case the offense is a Class C felony; or
- Delivering a controlled substance, in which case the offense is a Class D 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

Attorney General's Office
Department of Commerce and Insurance
Department of Corrections
Department of Mental Health
Department of Natural Resources
Department of Public Safety
Department of Social Services
Department of Transportation
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
St. Louis County Department of Justice Services
St. Louis County Police Department
Springfield Police Department
Metropolitan St. Louis Sewer District



Julie Morff
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March 6, 2020



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March 6, 2020