

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3891-02  
Bill No.: SB 538  
Subject: Firearms; Weapons; Crimes and Punishment  
Type: Original  
Date: January 6, 2020

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Bill Summary: This proposal modifies penalties relating to the offense of unlawful possession of a firearm.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
General Revenue	\$0	\$0	\$0	(\$33,884)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$33,884)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>Fully Implemented (FY 2024)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>Fully Implemented (FY 2024)</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>Fully Implemented (FY 2024)</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §571.070 - Unlawful possession of a firearm

Officials from the **Department of Corrections (DOC)** state this bill enhances the felony class of unlawful possession of a firearm from a class D felony to a class C felony when an offender has been convicted of a dangerous felony, armed criminal action or drug trafficking.

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 until 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 or armed criminal action, and zero 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 five new prison admissions and a loss of five field supervisions by FY 2024.

ASSUMPTION (continued)

	# to prison	Cost per year	Total Costs for <b>prison</b>	# to probation & parole	Cost per year	Total cost for <b>probation and parole</b>	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	0	(\$6,386)	\$0	0	absorbed	\$0	\$0
Year 2	0	(\$6,386)	\$0	0	absorbed	\$0	\$0
Year 3	0	(\$6,386)	\$0	0	absorbed	\$0	\$0
Year 4	5	(\$6,386)	(\$33,884)	(5)	absorbed	\$0	(\$33,884)
Year 5	5	(\$6,386)	(\$34,562)	(5)	absorbed	\$0	(\$34,562)
Year 6	5	(\$6,386)	(\$35,253)	5	absorbed	\$0	(\$35,253)
Year 7	5	(\$6,386)	(\$35,958)	8	absorbed	\$0	(\$35,958)
Year 8	5	(\$6,386)	(\$36,678)	8	absorbed	\$0	(\$36,678)
Year 9	5	(\$6,386)	(\$37,411)	8	absorbed	\$0	(\$37,411)
Year 10	5	(\$6,386)	(\$38,159)	8	absorbed	\$0	(\$38,159)

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** contacted the DOC regarding the meaning of a U felony. According to the DOC, under a U felony, the convicted person will be punished according to the specific statute which makes the crime against the law. Those unclassified felonies can receive a penalty outside the definition of a class A, B, C, D, or E felony.

**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 **State Public Defender’s Office** state this proposed legislation escalates the penalties for Unlawful Possession of a Firearm to a C felony if the charged has been convicted of a dangerous felony, armed criminal action, or trafficking drugs. However, in regard to representation by the State Public Defender’s Office, the attorney hours required for a C felony and a D felony are the same.

**Oversight** does not have any information contrary to that provided by SPD. Therefore, Oversight will reflect SPD’s “no 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.

**Oversight** notes the **Department of Public Safety - Missouri State Highway Patrol** and the **Office of State Courts Administrator** 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.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
<b>GENERAL REVENUE FUND</b>				
<u>Costs - DOC</u> (§571.070) Increased incarceration costs	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$33,884)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(\$33,884)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	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, 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, a crime of armed criminal action, or the offense of trafficking drugs to a class C 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



Julie Morff  
Director  
January 6, 2020

Ross Strobe  
Assistant Director  
January 6, 2020