

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1599S.01I
Bill No.: SB 343
Subject: Crimes and Punishment; Criminal Procedure; Prison and Jails; Probation and Parole, Corrections, Department of
Type: Original
Date: February 12, 2021

Bill Summary: This proposal modifies provisions relating to terms of imprisonment.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2027)
General Revenue*	\$0 to (\$12,466,840)	\$0 to (\$15,287,410)	\$0 to (\$15,621,306)	\$0 to (\$20,460,179)
Total Estimated Net Effect on General Revenue	\$0 to (\$12,466,840)	\$0 to (\$15,287,410)	\$0 to (\$15,621,306)	\$0 to (\$20,460,179)

*Officials from the DOC state the cumulative impact of changes in these sections may result in up to approximately 2,845 more people in prison and 2,845 fewer people under field supervision by FY2027. This legislation would still allow for the discretionary granting of jail time credit and still allows for discretionary parole. Therefore, the projected impact will be \$0 to (\$20,460,179) by the year 2027.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2027)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2027)
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 2022	FY 2023	FY 2024	Fully Implemented (FY 2027)
General Revenue	0 to (45) FTE	0 to (45) FTE	0 to (45) FTE	0 to (55) FTE
Total Estimated Net Effect on FTE	0 to (45) FTE	0 to (45) FTE	0 to (45) FTE	0 to (55) FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2027)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§558.011– Terms of imprisonment

Officials from the **Department of Corrections (DOC)** state §558.011 repeals the provision that allows for conditional release of offenders from prison. Following repeal, offenders in prison would be released either at the discretion of the Board of Probation and Parole or upon completion of the term(s) of their sentence(s).

DOC evaluated first releases of offenders on conditional release and parole release during fiscal years 2017 through 2020. In FY 2020, 478 offenders were released on conditional release. The following table shows the difference in times between condition release dates and maximum discharge dates for those offenders broken down by sentence felony class.

Felony class	Releases	Average Sentence Length (Years)	Average Time Served (Years)	Difference
A	9	21.0	17.9	3.1
B	93	9.0	7.2	1.8
C	189	6.0	4.2	1.8
D	101	3.0	2.4	0.6
E	37	2.0	1.4	0.6
U	49	11.0	8.4	2.6
Total	478	6.0	4.9	1.1

Based on this number of conditional releases in FY 2020, with an average sentence length of 6.0 years and average release time of 4.9 years, if all offenders who would have been released on conditional release were instead not released until their maximum discharge date, there could be up to an additional 526 offenders in prison and 526 fewer offenders under supervision in the field by FY 2027.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	478	478	478	478	478	478	478	478	478	478
After Legislation	478	478	478	478	478	478	478	478	478	478
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					48	526	526	526	526	526
Parole					-48	-526	-526	-526	-526	-526
Probation										
Impact										
Prison Population					48	526	526	526	526	526
Field Population					-48	-526	-526	-526	-526	-526
Population Change										

§558.031 – Credit for jail time awaiting trial

DOC states §558.031 proposes to eliminate the opportunity to reduce prison sentence terms by issuing jail time credit for offenders who enter prison on new court commitments, court commitments on additional charges, probation revocation for new felony convictions, or technical probation revocations.

The table below shows that there were 4,858 such commitments from the court during FY 2020. This represents a significantly lower number from such commitments during fiscal years 2017 through 2019. Given the impact of COVID-19 on activity in the courts, the number of court commitments during FY 2019 is used to estimate the potential impact on department operations.

Table 1. Jail Time Credit on Sentences associated with court commitments to prison from FY 2017 through FY 2020.

Fiscal Year	Commitments	Average Sentence Credit Time (days)	Median Sentence Credit Time (days)
2017	6,734	184	132
2018	6,495	196	143
2019	5,797	199	147
2020	4,858	197	141

A proposal to repeal the opportunity to apply jail time credit does not change sentence length, the only difference in operations evaluated here is the increase in length of an offender's prison stay prior to first release following a commitment from the court or probation revocation.

With an estimated 5,797 new offender commitments per year, serving an additional 147 days in prison prior to their first release, DOC could expect up to approximately 2,319 more people in prison and 2,319 fewer people under field supervision following repeal of jail time credit.

Table 2. Change in prison and field populations with change in legislation.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	5,797	5,797	5,797	5,797	5,797	5,797	5,797	5,797	5,797	5,797
After Legislation	5,797	5,797	5,797	5,797	5,797	5,797	5,797	5,797	5,797	5,797
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	2,319	2,319	2,319	2,319	2,319	2,319	2,319	2,319	2,319	2,319
Parole	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319
Probation										
Impact										
Prison Population	2,319	2,319	2,319	2,319	2,319	2,319	2,319	2,319	2,319	2,319
Field Population	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319	-2,319
Population Change	0	0	0	0	0	0	0	0	0	0

The cumulative impact of changes in these sections may result in up to approximately 2,845 more people in prison and 2,845 fewer people under field supervision by FY2027. This legislation would still allow for the discretionary granting of jail time credit and still allows for discretionary parole. Therefore, the projected impact will be \$0 to (\$20,460,179) by the year 2027.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	6275	6275	6275	6275	6275	6275	6275	6275	6275	6275
After Legislation	6275	6275	6275	6275	6275	6275	6275	6275	6275	6275
Probation	0	0	0	0	0	0	0	0	0	0
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	2319	2319	2319	2319	2367	2845	2845	2845	2845	2845
Parole	-2319	-2319	-2319	-2319	-2367	-2845	-2845	-2845	-2845	-2845
Probation	0	0	0	0	0	0	0	0	0	0
Impact										
Prison Population	2319	2319	2319	2319	2367	2845	2845	2845	2845	2845
Field Population	-2319	-2319	-2319	-2319	-2367	-2845	-2845	-2845	-2845	-2845
Population Change	0	0	0	0	0	0	0	0	0	0

	# 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 2% inflation)
Year 1	2,319	(\$7,756)	(\$14,988,470)	(45)	\$2,521,630	(2,319)	(\$12,466,840)
Year 2	2,319	(\$7,756)	(\$18,345,887)	(45)	\$3,058,477	(2,319)	(\$15,287,410)
Year 3	2,319	(\$7,756)	(\$18,712,805)	(45)	\$3,091,499	(2,319)	(\$15,621,306)
Year 4	2,319	(\$7,756)	(\$19,087,061)	(45)	\$3,124,855	(2,319)	(\$15,962,206)
Year 5	2,367	(\$7,756)	(\$19,871,779)	(46)	\$3,228,801	(2,367)	(\$16,642,978)
Year 6	2,845	(\$7,756)	(\$24,362,448)	(55)	\$3,902,269	(2,845)	(\$20,460,179)
Year 7	2,845	(\$7,756)	(\$24,849,697)	(55)	\$3,944,584	(2,845)	(\$20,905,113)
Year 8	2,845	(\$7,756)	(\$25,346,691)	(55)	\$3,987,323	(2,845)	(\$21,359,369)
Year 9	2,845	(\$7,756)	(\$25,853,625)	(55)	\$4,030,638	(2,845)	(\$21,822,987)
Year 10	2,845	(\$7,756)	(\$26,370,698)	(55)	\$4,074,385	(2,845)	(\$22,296,312)

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections 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 the DOC average district caseload across the state which is 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 48 probation and parole districts.

The DOC cost of incarceration is \$21.251 per day or an annual cost of \$7,756 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.

For the purpose of the proposed legislation, and as a result of excessive caseloads, the **Missouri State Public Defender (SPD)** cannot assume existing staff will be able to provide competent, effective representation in post-conviction cases which will arise from this change to Section 558.031 RSMo. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards. This change to the statute concerning the credit for jail time served prior to a conviction will result in an increase in post-conviction cases requiring public defender representation. The post-conviction cases will arise out of a failure of the court to credit a convicted person the time spent confined in jail as a result of the case in which the conviction arises.

Oversight assumes the SPD will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the SPD for fiscal note purposes.

Officials from the **Missouri Office of Prosecution Services** and the **Office of the State Courts Administrator** each assume the proposal will have no 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 circuit clerks 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 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2027)
GENERAL REVENUE FUND				
<u>Savings – DOC</u> (§§558.011 and 558.031) Decrease in P&P officers	\$0 to...	\$0 to...	\$0 to...	\$0 to...
Personal service	\$1,453,230	\$1,761,300	\$1,778,940	\$2,240,095
Fringe benefit	\$938,215	\$1,137,112	\$1,148,492	\$1,446,230
Expense and Equipment	<u>\$130,185</u>	<u>\$160,065</u>	<u>\$164,067</u>	<u>\$215,944</u>
<u>Total savings - DOC</u>	<u>\$2,521,630</u>	<u>\$3,058,477</u>	<u>\$3,091,499</u>	<u>\$3,902,269</u>
FTE Change - DOC	0 to (45) FTE	0 to (45) FTE	0 to (45) FTE	0 to (55) FTE
<u>Costs – DOC (§§558.011 and 558.031) Increased incarceration costs</u>	<u>(\$14,988,470)</u>	<u>(\$18,345,887)</u>	<u>(\$18,712,805)</u>	<u>(\$24,362,448)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 to</u> <u>(\$12,466,840)</u>	<u>\$0 to</u> <u>(\$15,287,410)</u>	<u>\$0 to</u> <u>(\$15,621,306)</u>	<u>\$0 to</u> <u>(\$20,460,179)</u>
Estimated Net FTE Change for the General Revenue Fund	0 to (45) FTE	0 to (45) FTE	0 to (45) FTE	0 to (55) FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2027)
	<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

TERMS OF IMPRISONMENT (Section 558.011)

Under current law, certain offenders may receive early release from incarceration by conditional release. A percentage of the number of years of the sentence is required to be served before an offender is eligible for conditional release; however, the date of conditional release from a prison term may be extended up to a maximum of the entire sentence by the Parole Board if the offender fails to follow the rules and regulations of the Department of Corrections. This act repeals the provision that the Parole Board shall impose certain conditional release terms and repeals the provision that the Parole Board may extend the date of conditional release.

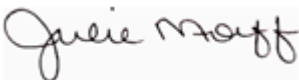
CREDIT FOR JAIL TIME AWAITING TRIAL (Section 558.031)

Under current law, a person receives credit toward a sentence of imprisonment for all time in prison, jail, or custody after the offense occurred and before the commencement of the sentence if the time in custody is related to the offense. This act modifies these provisions to require a person to receive credit toward a sentence of imprisonment for all time in prison, jail, or custody after conviction and before commencement of the sentence and the circuit court may award credit for time spent in prison, jail, or custody after the offense occurred and before conviction toward the service of the sentence of imprisonment. This act will be applicable to offenses occurring on or after the effective date of this act.


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
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender



Julie Morff
Director
February 12, 2021



Ross Strobe
Assistant Director
February 12, 2021