

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1637S.02I  
Bill No.: SB 374  
Subject: Attorneys; Courts; Crimes and Punishment; Criminal Procedure; Prison and Jails;  
Judges  
Type: Original  
Date: March 17, 2021

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Bill Summary: This proposal modifies provisions relating to the conditional release of offenders.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
General Revenue	\$0 to (\$6,463)	\$0 to (\$15,822)	\$0 to (\$16,139)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 to (\$6,463)</b>	<b>\$0 to (\$15,822)</b>	<b>\$0 to (\$16,139)</b>

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

Numbers within parentheses: () indicate costs or losses.

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

- 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.

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

## FISCAL ANALYSIS

### ASSUMPTION

#### §544.665 – Conditional release of offenders

Officials from the **Department of Corrections (DOC)** state this proposal modifies §544.665 to allow the filing of charges for failure to appear when an offender violates the conditions of pretrial release, which were imposed by the court. If the felony offense for which a pretrial release is given, violating the provisions of release is a class E felony.

This change in legislation expands the scope of the offense of failure to appear before a court or judicial officer by adding a person who has been granted release pending trial and violates conditions of release imposed by the court. The potential impact of these changes could be a new class E felony, if the court files charges for failing to appear before a court or judicial officer.

To estimate a fiscal impact, the department will utilize a standard E felony response. For each new nonviolent class E felony, it is estimated that one person could be sentenced to prison and two to probation. The average sentence for a nonviolent 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.

The cumulative impact on the department is estimated to be up to two additional offenders in prison and up to seven additional offenders on field supervision by FY 2024.

	# 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 2% inflation)
Year 1	1	(\$7,756)	(\$6,463)	2	absorbed	\$0	(\$6,463)
Year 2	2	(\$7,756)	(\$15,822)	4	absorbed	\$0	(\$15,822)
Year 3	2	(\$7,756)	(\$16,139)	7	absorbed	\$0	(\$16,139)
Year 4	2	(\$7,756)	(\$16,461)	7	absorbed	\$0	(\$16,461)
Year 5	2	(\$7,756)	(\$16,791)	7	absorbed	\$0	(\$16,791)
Year 6	2	(\$7,756)	(\$17,127)	7	absorbed	\$0	(\$17,127)
Year 7	2	(\$7,756)	(\$17,469)	7	absorbed	\$0	(\$17,469)
Year 8	2	(\$7,756)	(\$17,818)	7	absorbed	\$0	(\$17,818)
Year 9	2	(\$7,756)	(\$18,175)	7	absorbed	\$0	(\$18,175)
Year 10	2	(\$7,756)	(\$18,538)	7	absorbed	\$0	(\$18,538)

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** notes it is unknown how many individuals will violate the conditions of release imposed by the court or if the court will file charges for the violation. Therefore, Oversight will reflect DOC's impact of \$0 (no charges filed) to the estimate provided by DOC to the General Revenue Fund.

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 for any new cases where indigent persons are charged with the proposed new crime(s) of failure to appear under Section 544.665 RSMo. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards. While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Missouri State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

**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 **Attorney General’s Office**, the **Department of Public Safety - Missouri Highway Patrol**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **Crestwood Police Department**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, and the **Tipton Police Department** 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 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 –</u> <u>State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>GENERAL REVENUE FUND</b>			
<u>Costs – DOC</u> (\$544.665) Increased incarceration costs	\$0 to (\$6,463)	\$0 to (\$15,822)	\$0 to (\$16,139)
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>\$0 to (\$6,463)</b>	<b>\$0 to (\$15,822)</b>	<b>\$0 to (\$16,139)</b>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<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 a person who has been granted release pending trial in any criminal matter shall be in violation of the conditions of release imposed by the court by:

- Failing to appear for any court appearance;
- Being arrested or formally charged with any new criminal offense; or
- Violating any other condition of release that the court has placed on the person to secure the appearance of the person at trial and to secure the safety of the community.

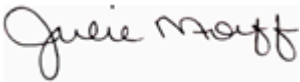
This act also provides that it shall be presumed that a person charged with the offense of failure to appear who committed a dangerous felony will not appear upon a summons and, upon the finding of probable cause of a violation of conditional release by a court, an arrest warrant shall be issued. The filing of a complaint or indictment for violation of conditions of release of a person charged with the offense of failure to appear who committed a dangerous felony shall create a rebuttable presumption that no combination of conditions will secure the safety of the community and the offender shall be detained pending trial.

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

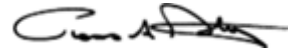
SOURCES OF INFORMATION

- Attorney General’s Office
- Department of Corrections
- Department of Public Safety - Missouri Highway Patrol
- Missouri Office of Prosecution Services
- Office of the State Courts Administrator
- Office of the State Public Defender
- Crestwood Police Department
- Kansas City Police Department
- St. Joseph Police Department
- St. Louis County Police Department
- Tipton Police Department

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