

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3551H.03C
 Bill No.: HCS for SCS for SB 799
 Subject: Crimes and Punishment; Probation and Parole; Department of Corrections;
 Compacts
 Type: Original
 Date: April 29, 2022

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
General Revenue*	\$0 or Unknown	\$0 or Unknown	Less than (\$3,401,627)	Less than (\$10,438,955)
Total Estimated Net Effect on General Revenue	\$0 or Unknown	\$0 or Unknown	Less than (\$3,401,627)	Less than (\$10,438,955)

*Oversight notes the fiscal impact is ranged from \$0 (effectively no change from current practice) to potentially an additional 610 offenders remaining in prison, depending upon actions of the Department of Corrections and the court system of the now discretionary earned compliance credits.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
Missouri Interstate Compact Fund	Less than \$293,854	Less than \$352,625	Less than \$352,625	Less than \$352,625
Total Estimated Net Effect on Other State Funds	Less than \$293,854	Less than \$352,625	Less than \$352,625	Less than \$352,625

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
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 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
General Revenue	0 FTE	0 FTE	0 to 41 FTE	0 to 61 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	0 to 41 FTE	0 to 61 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 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
Local Government	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek approval to publish a new fiscal note.

§§217.147, 559.016, 559.036, and 559.115 – Probation earned discharge

Officials from the **Department of Corrections (DOC)** state this proposal changes the law regarding probation earned compliance credits. This proposal intends to repeal sections 217.147, 217.703, 559.016, 559.036, and 559.115 and to enact in lieu thereof four new sections relating to probation.

Parole Discharges

In FY 2021, 2,202 offenders who were not serving a consecutive sentence were discharged from their final parole supervision sentence without earned compliance credit. These offenders served, on average, 6.0 years of a 6.7 year sentence with the department. (Time served can vary from sentence length for non-ECC discharges due to the issuance of jail time credit and Board early discharges.) In FY 2021, 2,738 offenders not serving a consecutive sentence were discharged from their final parole supervision sentence with earned compliance credit after having served, on average, 4.8 years of a 6.3 year sentence with the department.

FY 2021 Parole Discharges

	Offenders	Average Sentence	Average Time Served
Discharge	2,202	6.7	6.0
Earned Compliance Credit Discharge	2,738	6.3	4.8
Total	4,940	6.5	5.3

Parole discharges in FY 2021 without earned compliance credit served, on average, 90% of their sentence with the department. Parole discharges in FY 2021 with earned compliance credit served, on average, 76% of their sentence. The average proportion of sentence served with the department for all discharges from parole in FY 2021 was 82% of their sentence. To estimate the potential impact of the proposed legislation, DOC assumes all future parolees will serve 90% of their sentence with the department.

Probation Discharges

In FY 2021, 1,509 offenders not serving a consecutive sentence were discharged from their final probation supervision sentence without earned compliance credit after having served, on average, 3.2 years of a 6.3 year sentence with the department. In FY 2021, 4,401 offenders not serving a consecutive sentence were discharged from their final probation supervision sentence

with earned compliance credit after having served, on average, 2.7 years of a 5.8 year sentence with the department.

FY 2021 Probation Discharges

	Offenders	Average Sentence	Average Time Served
Discharge	1,509	6.3	3.2
Earned Compliance Credit Discharge	4,401	5.6	2.7
Total	5,910	5.8	2.9

Probation discharges in FY 2021 without earned compliance credit served, on average, 51% of their sentence. Probation discharges in FY 2021 with earned compliance credit served, on average, 48% of their sentence. The average proportion of sentence served with the department for all discharges from probation was 50% of their sentence. To estimate the potential impact of the proposed legislation, DOC assumes all new probation cases will serve 51% of their sentence with the department.

Estimate of Future Impact

In FY 2021, 3,757 offenders were released for the first time from prison to parole supervision that was not lifetime supervision on sentences that would otherwise be eligible for early discharge under ECC. The average sentence length for these offenders was 6.6 years; and, they had served, on average, 3.0 years, or 46% of their sentence term in prison prior to first release. This is the proportion of sentence term they use to estimate time to first release of new admissions.

In FY 2021, there were 3,048 new court commitments to prison with no sentences that required lifetime supervision and either a most serious sentence that was eligible for ECC or a sentence eligible for ECC that was designated to be served consecutive to other sentences. The average length of these sentences was 6.6 years.

In FY 2021, 13,712 offenders were assigned to the department as new probation cases. Of those new cases, 12,935 did not have a class A felony sentence or a class B felony sentence (which would make them eligible for early discharge under the proposed legislation). The average sentence length for new probation cases with sentences eligible for consideration for early discharge was 5.2 years. To estimate the maximum potential impact of this proposal, DOC assumes that these offenders would serve 51% of their sentence with the department instead of the 48% that probation cases discharged with earned compliance credit serve.

The estimated cumulative impact of the proposed legislation is an additional 610 offenders in prison (due to an increased likelihood of revocation of offenders serving longer periods under parole supervision) and 3,139 additional offenders under field supervision by FY 2028. 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 (\$10,166,324).**

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	3,048	3,048	3,048	3,048	3,048	3,048	3,048	3,048	3,048	3,048
After Legislation	3,048	3,048	3,048	3,048	3,048	3,048	3,048	3,048	3,048	3,048
Probation										
Current Law	13,712	13,712	13,712	13,712	13,712	13,712	13,712	13,712	13,712	13,712
After Legislation	13,712	13,712	13,712	13,712	13,712	13,712	13,712	13,712	13,712	13,712
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				610	610	610	610	610	610	610
Parole				-610	-610	1,000	1,000	1,000	1,000	1,000
Probation			2,139	2,139	2,139	2,139	2,139	2,139	2,139	2,139
Impact										
Prison Population				610	610	610	610	610	610	610
Field Population			2,139	1,529	1,529	3,139	3,139	3,139	3,139	3,139
Population Change			2,139	2,139	2,139	3,748	3,748	3,748	3,748	3,748

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	0	(\$8,255)	\$0	0	\$0	0	\$0
Year 2	0	(\$8,255)	\$0	0	\$0	0	\$0
Year 3	0	(\$8,225)	\$0	41	(\$3,401,627)	2,139	(\$3,401,627)
Year 4	610	(\$8,225)	(\$5,343,766)	29	(\$2,184,883)	1,529	(\$7,528,649)
Year 5	610	(\$8,225)	(\$5,450,641)	29	(\$2,208,351)	1,529	(\$7,658,993)
Year 6	610	(\$8,225)	(\$5,559,654)	61	(\$4,879,301)	3,139	(\$10,438,955)
Year 7	610	(\$8,225)	(\$5,670,847)	61	(\$4,745,633)	3,139	(\$10,416,480)
Year 8	610	(\$8,225)	(\$5,784,264)	61	(\$4,796,840)	3,139	(\$10,581,104)
Year 9	610	(\$8,225)	(\$5,899,949)	61	(\$4,848,530)	3,139	(\$10,748,480)
Year 10	610	(\$8,225)	(\$6,017,948)	61	(\$4,900,877)	3,139	(\$10,918,826)

In response to similar legislation from 2022 (HB 1708), officials from the **Office of the State Courts Administrator** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

§§217.035, 217.650, 217.670, 217.710, 217.720, 548.241, 589.564, and 589.565 – Interstate compact

Officials from the **Department of Corrections (DOC)** state the additional authority to request adjustments to conditions of supervision introduced in §589.564 prohibits requesting modification of the length of an offender’s sentence. Therefore, there is no expected impact on

offender populations from this change. While the requirement of offenders to pay a fee to apply for interstate transfer introduced in §589.565 may reduce the number of such requests, there is no way for the department to know how many offenders will not apply due to the fee, and how many offenders may have the fee requirement waived by the compact commission because the fee was determined to be an undue economic burden on the offender.

In 2021, Missouri submitted 3,359 outgoing transfers for Interstate Compact. This figure will be used to estimate the number of transfers in all subsequent years. Approximately 40% of transfers or 1,344 offenders (3,359 x .40) are projected to be indigent and would receive a waiver of the \$175 fee. The DOC assumes the remaining 2,015 offenders would be able to pay the \$175 application fee required for transfer.

At most, there will be \$293,854 (2,015 offenders x \$175) revenue deposited into the Missouri Interstate Compact Fund in FY 2023, which shall be used for the costs of administration of these provisions.

	Number of Interstate Compact Transfer Applications	Cost per Transfer	Total Revenue Collected
Year 1	2,015	(\$175)	(\$293,854)
Year 2	2,015	(\$175)	(\$352,625)
Year 3	2,015	(\$175)	(\$352,625)
Year 4	2,015	(\$175)	(\$352,625)
Year 5	2,015	(\$175)	(\$352,625)
Year 6	2,015	(\$175)	(\$352,625)
Year 7	2,015	(\$175)	(\$352,625)
Year 8	2,015	(\$175)	(\$352,625)
Year 9	2,015	(\$175)	(\$352,625)
Year 10	2,015	(\$175)	(\$352,625)

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

Oversight notes under current law, all necessary expenses accrued as a result of a person being returned to Missouri pursuant to the Interstate Compact for the Supervision of Parolees and Probationers shall be paid out of the state treasury. This act repeals this provision and provides that any person being returned to Missouri pursuant to the Interstate Compact for Adult Offender Supervision shall be paid out of either the "Missouri Interstate Compact Fund" or out of the state treasury.

Section 589.565 states a Missouri probationer or parolee requesting a transfer of their supervision through this compact shall pay a \$175 application fee and these moneys will be used for the sole benefit of the DOC in support of the administration of this section. Therefore, for purposes of this fiscal note, Oversight assumes transportation expenses will be paid out of the Missouri Interstate Compact Fund and will reflect a negative unknown cost to the fund. However, if the Missouri Interstate Compact Fund does not have moneys available due to the number of offenders granted a waiver of the transfer application fee, there could be an impact to the state treasury. Oversight notes the DOC has clarified the state treasury is the General Revenue Fund. Therefore, Oversight will reflect a potential savings from the deletion of §217.810.4.

In response to similar legislation from 2022 (SB 1023), officials from the **Office of the State Courts Administrator** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other county prosecutors and circuit clerks were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

§544.453 – Release of a Defendant

In response to similar legislation from 2022 (HCS HB 2246), officials from the **Office of the State Courts Administrator** and the **Attorney General's Office** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation from 2022 (HCS HB 2246), officials from the **St. Joseph Police Department** assumed the proposal will have no fiscal impact on their organization.

In response to a previous version (HB 2246), officials from the **Springfield Police Department** assumed the proposal will have no fiscal impact on their organization.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight assumes this proposal establishes certain provisions specific to setting bail and the conditions of release in Missouri courts. Oversight is unclear on how the new provisions will be implemented and if this will result in a savings or cost to local jails from an increase or decrease in jail days. Therefore, Oversight will reflect a positive and negative unknown savings/costs to local jail funds for this proposal.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other local law enforcement were requested to respond to this proposed legislation but

did not. A general listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

§575.200 – Escaping from custody

Officials from the **Department of Corrections (DOC)** state §575.200 relates to the offense of escape from custody. Same response as 3551-02. No impact. This legislation broadens the definition of escape; however, per the Board it does not appear to have significant impact due to the past conviction rates for similar escape offenses.

In response to a previous version, officials from the **Attorney General’s Office** and the **Office of the State Courts Administrator** each assumed 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.

Responses regarding the proposed legislation as a whole

Officials from the **Department of Public Safety – (Missouri Highway Patrol and Office of the Director)**, the **Missouri Office of Prosecution Services**, the **Office of the Governor**, the **Office of the State Public Defender**, the **Office of the State Treasurer**, the **Kansas City Police Department**, the **St. Louis County Police Department**, and the **Phelps County Sheriff’s Office** assume the proposal will have no 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 – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
GENERAL REVENUE FUND				
<u>Savings</u> – removal of expense in deletion of §217.810.4 p. 7	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Cost</u> – DOC (§§217.147, 559.016, 559.036, 559.115) p. 3-5			\$0 to...	\$0 to...
Personal service	\$0	\$0	(\$1,746,149)	(\$2,676,680)
Fringe benefits	\$0	\$0	(\$1,160,530)	(\$1,778,973)
Equipment and expense	\$0	\$0	(\$494,948)	(\$423,648)
Increased incarceration costs	\$0	\$0	\$0	(\$5,559,654)
<u>Total cost – DOC</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$3,401,627)</u>	<u>(\$10,438,955)</u>
FTE Change – DOC	0 FTE	0 FTE	0 to 41 FTE	0 to 61 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>Less than (\$3,401,627)</u>	<u>Less than (\$10,438,955)</u>
Estimated Net FTE Change to the General Revenue Fund	0 FTE	0 FTE	0 to 41 FTE	0 to 61 FTE
MISSOURI INTERSTATE COMPACT FUND				
<u>Revenue</u> – DOC (§589.565) Transfer application fee p. 6-7	\$293,854	\$352,625	\$352,625	\$352,625
<u>Cost</u> – DOC (§589.565) Transportation expense p. 6-7	(Unknown)	(Unknown)	(Unknown)	(Unknown)
NET EFFECT ON THE MISSOURI INTERSTATE COMPACT FUND	<u>Less than \$293,854</u>	<u>Less than \$352,625</u>	<u>Less than \$352,625</u>	<u>Less than \$352,625</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
LOCAL JAIL FUNDS				
<u>Savings/Cost</u> – (§544.453) Implementing new provisions relating to setting bail or conditions of release p. 7	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL JAIL FUNDS	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

PROBATION EARNED DISCHARGE (Sections 217.147, 559.016, 559.036, and 559.115)

This bill authorizes the Division of Probation and Parole within the Department of Corrections to discharge specified offenders who have served at least 24 months of a probation term, who are compliant with supervision ordered by the court, who have paid restitution owed in full, and who are not on probation for a class A or B felony or subject to lifetime supervision. An earned compliance credit system currently in law is repealed and replaced by the earned discharge provisions of the bill.

Notice of proposed earned discharge shall be filed and provided to the prosecuting or circuit attorney. The prosecuting or circuit attorney may request a hearing within 30 days of filing to oppose discharge. If a hearing is requested, the court shall hold it and issue an order no later than 60 days from filing. If a hearing is not requested, then the court shall order discharge within 60 days of filing of notification of earned discharge, but no earlier than 30 days from such filing.

RELEASE OF A DEFENDANT (Section 544.453)

This bill establishes certain provisions that will apply when a judge or judicial officer sets bail. The provisions include there being a presumption against release on one's own recognizance or unsecured bond that may only be overcome by clear and convincing evidence that a person is not a flight risk or danger to the community in certain circumstances listed in the bill.

MISSOURI STATE COMPACT FUND (Section 589.565)

Under this act, a Missouri probationer or parolee seeking transfer of his or her supervision pursuant to the Interstate Compact for Adult Offender Supervision shall pay a \$175 fee for each

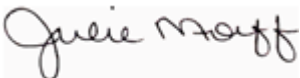
application, unless waived by the compact commissioner for an undue economic burden on the offender.

This act establishes the "Missouri State Compact Fund" and all fees collected by the commissioners shall be paid to the Fund. The money from the Fund shall be used for the sole benefit of the Department of Corrections to pay the expenses of the Interstate Compact for Adult Offender Supervision.

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 Office of Prosecution Services
Office of the Governor
Office of the State Courts Administrator
Office of the State Treasurer
Office of the State Public Defender
Phelps County Sheriff's Department
Kansas City Police Department
Springfield Police Department
St. Joseph Police Department
St. Louis County Police Department



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