

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4290S.01I
 Bill No.: SB 831
 Subject: Banks and Financial Institutions; Crimes and Punishment; Property, Real and Personal
 Type: Original
 Date: January 27, 2022

Bill Summary: This proposal creates and modifies provisions relating to offenses involving teller machines.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
General Revenue*	(\$75,671)	(\$185,242)	(\$353,631)	(\$404,021)
Total Estimated Net Effect on General Revenue	(\$75,671)	(\$185,242)	(\$353,631)	(\$404,021)

*The fiscal impact stems from an estimated additional 11 persons (FY '23), 22 persons (FY '24), 33 persons (FY '25), and 38 persons (FY '26) in custody of the Missouri Department of Corrections.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
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 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
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 2026)
General Revenue	0 FTE	0 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	1 FTE	1 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 2026)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§569.190, 570.010, and 570.030 – Teller machines

Officials from the **Department of Corrections (DOC)** state this proposal creates and modifies provisions relating to offenses involving teller machines, introducing sections 569.190 and 570.030 of offense of tampering with a teller machine and associated penalties.

The offense of tampering with a teller machine is a class D felony unless the offense is committed for the purpose to defraud or obtain any property of a thousand dollars or more or the damage of a machine of a thousand dollars is a class C felony. The offense of stealing a teller machine (or the contents of) is a class C felony. The intent of the bill is to create a class D felony and two class C felonies.

For each new nonviolent class D felony, the department estimates three people will be sentenced to prison and five to probation. The average sentence for a nonviolent class D felony offense is 5 years, of which 2.8 years will be served in prison with 1.7 years to first release. The remaining 2.2 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 8 additional offenders in prison and 16 additional offenders on field supervision by FY 2025.

Change in prison admissions and probation openings with legislation-Class D Felony (nonviolent)

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	5	5	5	5	5	5	5	5	5	5
Cumulative Populations										
Prison	3	6	8	8	8	8	8	8	8	8
Parole	0	0	1	4	7	7	7	7	7	7
Probation	5	10	15	15	15	15	15	15	15	15
Impact										
Prison Population	3	6	8	8	8	8	8	8	8	8
Field Population	5	10	16	19	22	22	22	22	22	22
Population Change	8	16	24	27	30	30	30	30	30	30

For two new class C felonies, the department estimates eight people will be sentenced to prison and twelve to probation. The average sentence for a class C felony offense 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 on the department is estimated to be 30 additional offenders in prison and 38 additional offenders on field supervision by FY 2026.

Change in prison admissions and probation openings with legislation-Two Class C Felonies

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	8	8	8	8	8	8	8	8	8	8
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	12	12	12	12	12	12	12	12	12	12
Change (After Legislation - Current Law)										
Admissions	8	8	8	8	8	8	8	8	8	8
Probations	12	12	12	12	12	12	12	12	12	12
Cumulative Populations										
Prison	8	16	24	30	30	30	30	30	30	30
Parole				2	10	18	26	26	26	26
Probation	12	24	36	36	36	36	36	36	36	36
Impact										
Prison Population	8	16	24	30	30	30	30	30	30	30
Field Population	12	24	36	38	46	54	62	62	62	62
Population Change	20	40	60	68	76	84	91	91	91	91

The impact of two new class C felonies and a new class D felony on the department is estimated to be 38 additional offenders in prison and 57 on field supervision by FY 2026.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	11	11	11	11	11	11	11	11	11	11
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	17	17	17	17	17	17	17	17	17	17
Change (After Legislation - Current Law)										
Admissions	11	11	11	11	11	11	11	11	11	11
Probations	17	17	17	17	17	17	17	17	17	17
Cumulative Populations										
Prison	11	22	32	38	38	38	38	38	38	38
Parole	0	0	1	6	17	25	33	33	33	33
Probation	17	34	51	51	51	51	51	51	51	51
Impact										
Prison Population	11	22	32	38	38	38	38	38	38	38
Field Population	17	34	52	57	68	76	84	84	84	84
Population Change	28	56	84	95	106	114	121	121	121	121

	# 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	11	(\$8,255)	(\$75,671)	0	\$0	17	(\$75,671)
Year 2	22	(\$8,255)	(\$185,242)	0	\$0	34	(\$185,242)
Year 3	32	(\$8,255)	(\$274,832)	1	(\$78,799)	52	(\$353,631)
Year 4	38	(\$8,255)	(\$332,890)	1	(\$71,131)	57	(\$404,021)
Year 5	38	(\$8,255)	(\$339,548)	1	(\$71,897)	68	(\$411,445)
Year 6	38	(\$8,255)	(\$346,339)	1	(\$72,673)	75	(\$419,012)
Year 7	38	(\$8,255)	(\$353,266)	1	(\$73,460)	84	(\$426,726)
Year 8	38	(\$8,255)	(\$360,331)	1	(\$74,255)	84	(\$434,586)
Year 9	38	(\$8,255)	(\$367,538)	1	(\$75,060)	84	(\$442,598)
Year 10	38	(\$8,255)	(\$374,889)	1	(\$75,873)	84	(\$450,762)

If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$22.616 per day or an annual cost of \$8,255 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$88.12 per day or an annual cost of \$32,162 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases 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.

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 **Office of the State Public Defender (SPD)** state the proposed legislation creates the offense of tampering with a teller machine, in violation of Section 569.190, and therefore, could increase the number of persons who are eligible for representation by State Public Defender (SPD). The fiscal impact of this legislation on SPD is unknown as the number of additional cases eligible for representation as the result of the legislation is unknown, but it is anticipated that any increase would be less than \$250,000.

Oversight notes in FY22 the SPD was appropriated moneys for 53 additional FTE. Oversight assumes this proposal will create a minimal number of new cases and that the SPD can absorb the additional caseload required by this proposal with current staff and resources. Therefore, Oversight will reflect no fiscal impact to the SPD for fiscal note purposes. However, if multiple bills pass which require additional staffing and duties, the SPD may request funding through the appropriation process.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The enactment of a new crime (569.190) creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

Officials from the **Attorney General's Office**, the **Department of Commerce and Insurance**, the **Department of Public Safety - Missouri Highway Patrol**, 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.

<u>FISCAL IMPACT</u> <u>– State</u> <u>Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2026)
GENERAL REVENUE FUND				
<u>Cost – DOC -</u> <u>(\$569.190)</u> Increase in P&P officers p. 3-5				
Personal service	\$0	\$0	(\$39,532)	(\$39,927)
Fringe benefits	\$0	\$0	(\$27,195)	(\$27,467)
Equipment and expense	\$0	\$0	(\$12,072)	(\$3,737)
Total cost - DOC	\$0	\$0	(\$78,799)	(\$71,131)
FTE Change - DOC	0 FTE	0 FTE	1 FTE	1 FTE
<u>Cost – DOC p. 3-5</u> <u>(\$569.190)</u> Increased incarceration costs	(\$75,671)	(\$185,242)	(\$274,832)	(\$332,890)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	(\$75,671)	(\$185,242)	(\$353,631)	(\$404,021)
Estimated Net FTE Change for the General Revenue Fund	0 FTE	0 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT</u> <u>- Local</u> <u>Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2026)
	<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

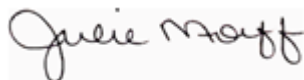
This act creates the offense of tampering with a teller machine if he or she knowingly and without authorization or without reasonable grounds to believe that he or she has such authorization modifies or damages a teller machine or otherwise renders a teller machine inoperable. Such offense shall be a class D felony, unless the offense is committed for the purpose of defrauding or obtaining property over \$1,000 or obtaining the personal financial credentials of another person, in which case it is a Class C felony. It shall also be a Class C felony if the damage to the teller machine is over \$1,000.

This act also adds that the offense of stealing is a class C felony if the property is a teller machine or the contents of a teller machine, as defined in the act, regardless of the value of the amount taken.

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 Public Safety - Missouri Highway Patrol
 Missouri Office of Prosecution Services
 Office of the State Courts Administrator
 Office of the State Public Defender



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 January 27, 2022



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 January 27, 2022