

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5281S.01I
 Bill No.: SB 1130
 Subject: Attorneys; Probation and Parole; Courts; Department of Corrections
 Type: Original
 Date: March 17, 2022

Bill Summary: This proposal modifies provisions relating to earned compliance credits for probation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2028)
General Revenue*	\$0	\$0	\$0 to (\$3,230,743)	\$0 to (\$10,176,895)
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0 to (\$3,230,743)	\$0 to (\$10,176,895)

*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)
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 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	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§559.036 – Earned compliance credits

Officials from the **Department of Corrections (DOC)** state this proposal modifies provisions relating to earned compliance credits for 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

	Average 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 DOC used 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 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 (\$10,176,895).

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	(\$8,255)	\$0	41	(\$3,230,743)	2,139	(\$3,230,743)
Year 4	610	(\$8,255)	(\$5,343,766)	29	(\$2,062,788)	1,529	(\$7,406,554)
Year 5	610	(\$8,255)	(\$5,450,641)	29	(\$2,085,030)	1,529	(\$7,535,671)
Year 6	610	(\$8,255)	(\$5,559,654)	61	(\$4,617,241)	3,139	(\$10,176,895)
Year 7	610	(\$8,255)	(\$5,670,847)	61	(\$4,481,078)	3,139	(\$10,151,925)
Year 8	610	(\$8,255)	(\$5,784,264)	61	(\$4,529,540)	3,139	(\$10,313,804)
Year 9	610	(\$8,255)	(\$5,899,949)	61	(\$4,578,652)	3,139	(\$10,478,601)
Year 10	610	(\$8,255)	(\$6,017,948)	61	(\$4,628,254)	3,139	(\$10,646,202)

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 a range of impact from \$0 (the controlling authority's discretion remains consistent with current law) to DOC's estimated impact (controlling authorities discretion results in significant departure from current law) for fiscal note purposes.

Officials from the **Missouri Office of Prosecution Services** assume 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 that agency.

Officials from the **Office of the State Courts Administrator** did not respond to **Oversight's** request for fiscal impact for this proposal.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other counties and county prosecutors 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.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
GENERAL REVENUE FUND				
<u>Cost – DOC - (\$559.036)</u> Increase in P&P officers (p. 3-6)			\$0 to...	\$0 to...
Personal service	\$0	\$0	(\$1,620,812)	(\$2,484,469)
Fringe benefits	\$0	\$0	(\$1,114,983)	(\$1,709,124)
Equipment and expense	\$0	\$0	(\$494,948)	(\$423,648)
Total cost – DOC	\$0	\$0	(\$3,230,743)	(\$4,617,241)
FTE Change – DOC	0 FTE	0 FTE	0 to 41 FTE	0 to 61 FTE
<u>Cost – DOC (\$559.036)</u> Increased incarceration costs (p. 3-6)	\$0	\$0	\$0	(\$5,559,654)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	\$0	\$0	\$0 to (\$3,230,743)	\$0 to (\$10,176,895)
Estimated Net FTE Change for the General Revenue Fund	0 FTE	0 FTE	0 to 41 FTE	0 to 61 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2028)
	\$0	\$0	\$0	\$0

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, certain offenders may receive earned compliance credits to reduce their term of probation, parole, or conditional release. This act repeals those provisions and provides that

the Division of Probation and Parole shall file a notification of earned discharge from probation with the court for any defendant who has completed at least 24 months of the probation term and is compliant with the terms of supervision as ordered by the court and Division. The Division shall not file a notification of earned discharge for any defendant who has not paid restitution in full, currently completing a term of probation for any Class A or B felony, or subject to lifetime supervision under the law.

A prosecuting or circuit attorney may request a hearing within 30 days of the filing of a notification of earned discharge. If the state opposes the discharge, the prosecuting or circuit attorney shall argue the earned discharge is not appropriate and the defendant should continue to serve the probation term. Such hearing shall be held no later than 60 days after the filing of the notification.

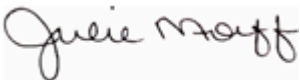
If the court finds by a preponderance of the evidence that the earned discharge is not appropriate, the court shall order the probation term to be continued, may modify the conditions of the probation, and may order continued supervision by the Division or the court. If the court finds that the earned discharge is appropriate, the court shall order the defendant discharged from probation.

If the prosecuting or circuit attorney does not request a hearing, the court shall order the defendant discharged from probation within 60 days of the filing of the notification of earned discharge, but no earlier than 30 days from the filing of notification of earned discharge.

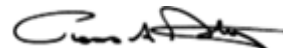
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Missouri Office of Prosecution Services
Office of the State Courts Administrator



Julie Morff
Director
March 17, 2022



Ross Strobe
Assistant Director
March 17, 2022