

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5293S.01I
 Bill No.: SB 1204
 Subject: Crimes and Punishment; Religion; Sexual Offenses; Victims of Crime
 Type: Original
 Date: May 2, 2022

Bill Summary: This proposal modifies provisions regarding the offense of sexual exploitation by a clergyman.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2026)
General Revenue	Less than (\$27,517)	Less than (\$67,361)	Less than (\$103,062)	Less than (\$131,404)
Total Estimated Net Effect on General Revenue	Less than (\$27,517)	Less than (\$67,361)	Less than (\$103,062)	Less than (\$131,404)

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)
Total Estimated Net Effect on FTE	0	0	0	\$0

- 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

§566.088 – Sexual exploitation by a clergy person

Officials from the **Department of Corrections (DOC)** state this proposal modifies provisions regarding the offense of sexual exploitation by a clergy person. This bill intends to prohibit sexual contact of a clergy person with another person who is not the clergy person's spouse. The offense of sexual exploitation by a clergy person is a class C felony.

For each new class C felony, the department estimates four people will be sentenced to prison and six 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 15 additional offenders in prison and 19 additional offenders on field supervision by FY 2026.

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

	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	4	4	4	4	4	4	4	4	4	4
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
Prison	4	8	12	15	15	15	15	15	15	15
Parole	0	0	0	1	5	9	13	13	13	13
Probation	6	12	18	18	18	18	18	18	18	18
Impact										
Prison Population	4	8	12	15	15	15	15	15	15	15
Field Population	6	12	18	19	23	27	31	31	31	31
Population Change	10	20	30	34	38	42	46	46	46	46

	# 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	4	(\$8,255)	(\$25,517)	0	\$0	6	(\$25,517)
Year 2	8	(\$8,255)	(\$67,361)	0	\$0	12	(\$67,361)
Year 3	12	(\$8,255)	(\$103,062)	0	\$0	18	(\$103,062)
Year 4	15	(\$8,255)	(\$131,404)	0	\$0	19	(\$131,404)
Year 5	15	(\$8,255)	(\$134,032)	0	\$0	23	(\$134,032)
Year 6	15	(\$8,255)	(\$136,713)	0	\$0	27	(\$136,713)
Year 7	15	(\$8,255)	(\$139,447)	0	\$0	31	(\$139,447)
Year 8	15	(\$8,255)	(\$142,236)	0	\$0	31	(\$142,236)
Year 9	15	(\$8,255)	(\$145,081)	0	\$0	31	(\$145,081)
Year 10	15	(\$8,255)	(\$147,982)	0	\$0	31	(\$147,982)

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. However, Oversight assumes fewer will be convicted of this new crime than DOC's estimates. Therefore, Oversight will reflect "less than" DOC's estimated impact for fiscal note purposes.

Officials from the **Office of the State Public Defender (SPD)** state the proposed legislation creates an offense under Section 566.088 of sexual exploitation by a clergyman and therefore, could increase the number of persons who are eligible for representation by the State Public Defender (SPD). The fiscal impact of this legislation on the 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 (566.088.4) 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 Public Safety - Missouri Highway Patrol** and the **Department of Social 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 these agencies.

In response to similar legislation from 2021 (SB 616), 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 for this agency.

<u>FISCAL IMPACT</u> – State Government	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2026)
GENERAL REVENUE FUND				
Cost – DOC (\$566.088) Increased incarceration costs	<u>Less than</u> <u>(\$27,517)</u>	<u>Less than</u> <u>(\$67,361)</u>	<u>Less than</u> <u>(\$103,062)</u>	<u>Less than</u> <u>(\$131,404)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Less than</u> <u>(\$27,517)</u>	<u>Less than</u> <u>(\$67,361)</u>	<u>Less than</u> <u>(\$103,062)</u>	<u>Less than</u> <u>(\$131,404)</u>

<u>FISCAL IMPACT</u> – Local Government	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 provides that a person commits the offense of sexual exploitation by a clergyman if such person is or holds oneself out to be a clergyman and engages in sexual conduct with another person who is not the clergyman's spouse, and the sexual conduct occurred:

- During the course of a meeting in which the victim sought or received religious advice or counseling from the clergyman or within 120 days after such meeting;
- During a period of time in which the victim was meeting on an ongoing basis with the clergyman to seek or receive religious advice or counseling; or

- While the clergy person was in a position of trust or authority over the victim and used that position of trust or authority to engage in the sexual conduct.

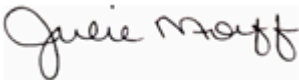
Consent is a defense under this act, unless the victim is a child less than 17 years of age.

The offense of sexual exploitation by a clergy person is a Class C felony.

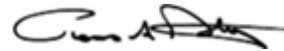
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Department of Social Services
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender



Julie Morff
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May 2, 2022



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