

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0436S.01P
 Bill No.: Perfected SB 186
 Subject: Banks and Financial Institutions; Crimes and Punishment; Property, Real and Personal
 Type: Original
 Date: February 23, 2023

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
General Revenue*	Less than (\$94,990)	Less than (\$232,536)	Less than (\$432,391)	Less than (\$521,841)
Total Estimated Net Effect on General Revenue	Less than (\$94,990)	Less than (\$232,536)	Less than (\$432,391)	Less than (\$521,841)

*The combined estimated cumulative impact of a new class D felony, two new class C felonies, and a new class B felony is estimated to be 43 additional offenders in state prison and 68 additional offenders on field supervision by FY 2028. Due to the narrow nature of these crimes, Oversight assumes there will not be as many new convictions as estimated by the Department of Corrections; however, we don't have a good basis to make an estimate. Therefore, Oversight will assume "less than" DOC's estimated cost.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	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 2024	FY 2025	FY 2026	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 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
General Revenue	0 FTE	0 FTE	0 - 1 FTE	0 - 1 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	0 - 1 FTE	0 - 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 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§569.100 and 570.030 – Teller machines

Officials from the **Department of Corrections (DOC)** state this bill modifies section 569.100 to include the offense of tampering with a teller machine and associated penalties and modifies section 570.030 to include the offense of stealing a property that is a teller machine or the content of a teller machine including cash regardless of the value or amount.

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 worth seven hundred fifty dollars or more or the damage of a machine of seven hundred and fifty dollars is a class C felony. Any second or subsequent offense is a class B felony. The offense of stealing a teller machine is a second class C felony.

The intent of the bill is to create a class D felony, two class C felonies, and a class B felony.

Operational Impact

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 2026.

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

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
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			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 54 additional offenders on field supervision by FY 2029.

Change in prison admissions and probation openings with legislation

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
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	0	0	0	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	92	92	92	92

Given the seriousness of class B felony offenses and that the introduction of a completely new class B felony offense is a rare event, the department assumes the admission of one person per year to prison following the passage of the legislative proposal.

Offenders committed to prison with a class B felony as their most serious sentence, had an average sentence length of 9.0 years and served, on average, 3.4 years in prison prior to first release. The department assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community.

The cumulative impact on the department is estimated to be 5 additional offenders in prison and 0 additional offenders on field supervision by FY 2027.

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	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations										
Cumulative Populations										
Prison	1	2	3	4	5	5	5	5	5	5
Parole						1	2	3	4	4
Probation										
Impact										
Prison Population	1	2	3	4	5	5	5	5	5	5
Field Population						1	2	3	4	4
Population Change	1	2	3	4	5	6	7	8	9	9

Combined Estimated Cumulative Impact

The combined estimated cumulative impact of a new class D felony, two new class C felonies, and a new class B felony on the department is estimated to be 43 additional offenders in prison and 68 additional offenders on field supervision by FY 2028.

Change in prison admissions and probation openings with legislation

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	12	12	12	12	12	12	12	12	12	12
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	12	12	12	12	12	12	12	12	12	12
Probations	17	17	17	17	17	17	17	17	17	17
Cumulative Populations										
Prison	12	24	35	42	43	43	43	43	43	43
Parole	0	0	1	6	17	26	35	36	37	37
Probation	17	34	51	51	51	51	51	51	51	51
Impact										
Prison Population	12	24	35	42	43	43	43	43	43	43
Field Population	17	34	52	57	68	77	86	87	88	88
Population Change	29	58	87	99	111	120	129	130	131	131

	# 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	12	(\$9,499)	(\$94,990)	0	\$0	17	(\$94,990)
Year 2	24	(\$9,499)	(\$232,536)	0	\$0	34	(\$232,536)
Year 3	35	(\$9,499)	(\$345,897)	1	(\$86,494)	52	(\$432,391)
Year 4	42	(\$9,499)	(\$423,377)	1	(\$78,871)	57	(\$502,248)
Year 5	43	(\$9,499)	(\$442,127)	1	(\$79,714)	68	(\$521,841)
Year 6	43	(\$9,499)	(\$450,970)	1	(\$80,569)	77	(\$531,539)
Year 7	43	(\$9,499)	(\$459,989)	1	(\$81,432)	86	(\$541,421)
Year 8	43	(\$9,499)	(\$469,189)	1	(\$82,308)	87	(\$551,497)
Year 9	43	(\$9,499)	(\$478,572)	1	(\$83,191)	88	(\$561,763)
Year 10	43	(\$9,499)	(\$488,144)	1	(\$84,086)	88	(\$572,230)

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 \$26.024 per day or an annual cost of \$9,499 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 \$87.46 per day or an annual cost of \$31,921 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.

Oversight does not have any information contrary to that provided by DOC. However, Oversight assumes the number of new prisoners detained for these charges will not reach the estimate provided by DOC, but we don’t have an estimate of the number of new convictions. Therefore, Oversight will reflect the fiscal impact as “less than” DOC’s estimated impact for fiscal note purposes.

Officials from the **Office of the State Public Defender (SPD)** state the creation of a new offense under section 569.100 will have an unknown fiscal impact on SPD. It is unknown how many additional cases will be eligible for SPD representation under this bill.

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 **Department of Commerce and Insurance**, the **Department of Public Safety - Missouri Highway Patrol**, the **Missouri Office of Prosecution Services**, and the **Office of the State Courts Administrator** assume the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation from 2022 (SB 831), officials from the **Attorney General's Office** 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.

<u>FISCAL IMPACT</u> <u>– State</u> <u>Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2028)
GENERAL REVENUE				
<u>Cost – DOC p. 3-6</u> (§§569.100 and 570.030) Increase in P&P officers	Less than..	Less than...	Less than...	Less than...
Personal service	\$0	\$0	(\$42,589)	(\$43,445)
Fringe benefits	\$0	\$0	(\$31,833)	(\$32,472)
Equipment and expense	<u>\$0</u>	<u>\$0</u>	<u>(\$12,072)</u>	<u>(\$3,797)</u>
Increased incarceration costs	<u>(\$94,990)</u>	<u>(\$232,536)</u>	<u>(\$345,897)</u>	<u>(\$442,127)</u>
Total cost - DOC	<u>(\$94,990)</u>	<u>(\$232,536)</u>	<u>(\$432,391)</u>	<u>(\$521,841)</u>
FTE Change - DOC	0 FTE	0 FTE	0 - 1 FTE	0 - 1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Less than</u> <u>(\$94,990)</u>	<u>Less than</u> <u>(\$232,536)</u>	<u>Less than</u> <u>(\$432,391)</u>	<u>Less than</u> <u>(\$521,841)</u>
Estimated Net FTE Change for the General Revenue Fund	0 FTE	0 FTE	0 - 1 FTE	0 - 1 FTE

<u>FISCAL IMPACT</u> <u>– Local</u> <u>Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2028)
	<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 modifies provisions relating to criminal offenses involving teller machines.

OFFENSE OF PROPERTY DAMAGE IN THE FIRST DEGREE (Sections 569.010 & 569.100)
This act adds to the offense of property damage in the first degree if such person knowingly damages, modifies, or destroys a teller machine or otherwise makes it inoperable.

This offense is a class D felony unless committed for the purpose of executing any scheme or artifice to defraud or obtain any property, the value of which exceeds \$750 or the damage to the teller machine exceeds \$750, in which case it is a class C felony. It shall be a class B felony if committed for the purpose of obtaining the personal financial credentials of another person or if the person has committed a second or subsequent offense of damaging a teller machine.

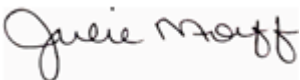
OFFENSE OF STEALING (Section 570.010 & 570.030)

This act adds that the offense of stealing shall be a class C felony if the property stolen is a teller machine or the contents of a teller machine including cash regardless of the value or amount stolen.

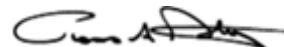
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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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