

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1196S.01I
 Bill No.: SB 164
 Subject: Children and Minors; Health Care Professionals; Medical Procedures and Personnel; Civil Penalties; Professional Registration and Licensing; Health Care
 Type: Original
 Date: February 13, 2023

Bill Summary: This proposal establishes the "Missouri Save Adolescents from Experimentation (SAFE) Act".

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund	Less than (\$72,243)	Less than (\$174,402)	Less than (\$266,835)
Total Estimated Net Effect on General Revenue	Less than (\$72,243)	Less than (\$174,402)	Less than (\$266,835)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	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 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Sections 191.1720, 568.060, 578.421- Missouri Save Adolescents from Experimentation (SAFE) Act

Officials from the **Department of Corrections (DOC)** state this proposal creates provisions relating to gender transition procedures.

DOC states Section 191.1720 is added, which establishes the “Missouri Save Adolescents from Experimentation (SAFE) Act”. This section’s terms in relation to the SAFE Act:

A subsection is added in Section 568.060 that states that a person commits the offense of abuse or neglect of a child if they coerce a child to undergo surgical or hormonal treatment for gender reassignment. This offense is a class D felony, without eligibility for probation, parole, or conditional release until they’ve served no less than one year of such sentence. If they’ve previously been found guilty of a violation of this section or the child has serious emotional or physical injury as a result, it is a class B felony, without eligibility for probation, parole, or conditional release until they’ve served no less than five years of such sentence. It is a class A felony if the child dies as a result of conduct chargeable under this section.

Section 578.421 is modified to provide reference to the definition of abuse or neglect of a child in Section 568.060.

The intent of the bill is to add to the offense of abuse or neglect of a child. This is a class D felony. If the offense results in serious physical or emotional injury, it is a class B felony. If it results in death, it is a class A felony.

Abuse of child as class A felony:

Given the seriousness of class A felony offenses and that the introduction of a completely new class A 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 A felony, had an average sentence length of 17.1 years and served, on average, 12.3 years in prison prior to first release. The department assumes one third of the remaining sentence length could be served in prison as a parole return, and the rest of the sentence could be served on supervision in the community.

The sentence lengths associated with these offenses pushes the estimate of total cumulative impact on the department beyond the 10-year time frame of this fiscal note. However, the estimated impact by FY 2033 is 10 additional offenders in prison.

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	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	6	7	8	9	10
Parole										
Probation										
Impact										
Prison Population	1	2	3	4	5	6	7	8	9	10
Field Population										
Population Change	1	2	3	4	5	6	7	8	9	10

Abuse of child results in serious physical or emotion injury as a Class B felony:

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 could be served in prison as a parole return, and the rest of the sentence could be served on supervision in the community.

The cumulative impact on the department is estimated to be 5 additional offenders in prison and 4 additional offenders on field supervision by FY 2031.

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

Abuse of child as class D felony:

For each new sex or child abuse related class D felony, the Department estimates seven people could be sentenced to prison and four to probation. The average sentence for a sex or child abuse related class D felony offense is 6.6 years of which, 5.4 years could be served in prison with 4.7 years to first release. The remaining 1.2 years could be on parole. Probation sentences could be 5 years.

The cumulative impact on the Department is estimated to be 37 additional offenders in prison and 29 additional offenders on field supervision by FY 2030.

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	7	7	7	7	7	7	7	7	7	7
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	7	7	7	7	7	7	7	7	7	7
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	7	14	21	28	35	37	37	37	37	37
Parole						5	9	9	9	9
Probation	4	8	12	16	20	20	20	20	20	20
Impact										
Prison Population	7	14	21	28	35	37	37	37	37	37
Field Population	4	8	12	16	20	25	29	29	29	29
Population Change	11	22	33	44	55	62	66	66	66	66

Combined Estimated Impact

The combined estimated cumulative impact of a new Class A felony, new Class B, and a new Class D felony on the department is estimated to be 52 additional offenders in prison and 33 additional offenders on field supervision by FY 2033.

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	9	9	9	9	9	9	9	9	9	9
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	9	9	9	9	9	9	9	9	9	9
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	9	18	27	36	45	48	49	50	51	52
Parole	0	0	0	0	0	6	11	12	13	13
Probation	4	8	12	16	20	20	20	20	20	20
Impact										
Prison Population	9	18	27	36	45	48	49	50	51	52
Field Population	4	8	12	16	20	26	31	32	33	33
Population Change	13	26	39	52	65	74	80	82	84	85

* 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 could 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 could 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.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC could use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	9	(\$9,499)	\$71,243	0	absorbed	\$0	\$71,243
Year 2	18	(\$9,499)	\$174,402	0	absorbed	\$0	\$174,402
Year 3	27	(\$9,499)	\$266,835	0	absorbed	\$0	\$266,835
Year 4	36	(\$9,499)	\$362,895	0	absorbed	\$0	\$362,895
Year 5	45	(\$9,499)	\$462,691	0	absorbed	\$0	\$462,691
Year 6	48	(\$9,499)	\$503,408	0	absorbed	\$0	\$503,408
Year 7	49	(\$9,499)	\$524,173	0	absorbed	\$0	\$524,173
Year 8	50	(\$9,499)	\$545,568	0	absorbed	\$0	\$545,568
Year 9	51	(\$9,499)	\$567,609	0	absorbed	\$0	\$567,609
Year 10	52	(\$9,499)	\$590,314	0	absorbed	\$0	\$590,314

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC’s estimated impact for fiscal note purposes. However, Oversight assumes the actual number of prisoners resulting from these new crimes will more than likely not reach the number provided by DOC; therefore, Oversight will assume “Less than” the amounts provided by DOC.

Officials from the **Department of Commerce and Insurance**, the **Department of Elementary and Secondary Education**, the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Labor and Industrial Relations**, the **Department of Social Services**, the **Department of Public Safety - Missouri Highway Patrol**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Office of the State Public Defender**, **Missouri Consolidated Health Care Plan**, the **Office of the State Courts Administrator**, **Kansas City**, the **City of Springfield**, the **City of Claycomo** and the **City of O’Fallon** 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.

In response to a similar proposal from this year (HB 463), officials from the **Missouri Office of Prosecution Services** 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 cities and counties 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 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
<u>Cost – DOC</u> Cost of incarceration	<u>Less than</u> <u>(\$72,243)</u>	<u>Less than</u> <u>(\$174,402)</u>	<u>Less than</u> <u>(\$266,835)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>Less than</u> <u>(\$72,243)</u>	<u>Less than</u> <u>(\$174,402)</u>	<u>Less than</u> <u>(\$266,835)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small business health care providers could, under circumstance outlined in the proposal, be subject to discipline as a result of this proposal.

FISCAL DESCRIPTION

The proposal would forbid physicians or health care providers from providing gender transition procedures to any minor or referring minors to other health care providers for gender transition procedures. The proposal also has penalty (civil and criminal) provisions.

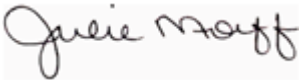
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

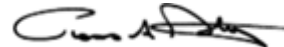
Department of Commerce and Insurance
 Department of Elementary and Secondary Education
 Department of Health and Senior Services

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Department of Mental Health
Department of Corrections
Department of Labor and Industrial Relations
Department of Public Safety
 Missouri Highway Patrol
Department of Social Services
Missouri Department of Conservation
Missouri Department of Transportation
Office of the State Public Defender
Missouri Consolidated Health Care Plan
Office of the State Courts Administrator
Missouri Office of Prosecution Services
Kansas City
City of Springfield
City of Claycomo
City of O'Fallon



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February 13, 2023



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