

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1277S.02I
 Bill No.: SB 346
 Subject: County Officials; Elections; Political Subdivisions; Secretary of State
 Type: Original
 Date: March 27, 2023

Bill Summary: This proposal modifies provisions relating to elections.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
General Revenue	(\$31,663)	(\$77,512)	(\$108,710)	(\$133,666)
Total Estimated Net Effect on General Revenue	(\$31,663)	(\$77,512)	(\$108,710)	(\$133,666)

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)
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 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

The **Office of the Secretary of State (SOS)** assumes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could require additional resources.

Officials from the **Department of Corrections (DOC)** assume section 115.638 is created to include the offense of Tampering with an Election Official.

These actions are considered a class D felony offense, unless it results in death or bodily injury to an election official or their family, in which case it is a class B felony; therefore, the intent of the bill is to create a new class D felony offense and a new class B felony offense.

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 22 additional offenders on field supervision by FY 2028.

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

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 4 additional offenders on field supervision by FY 2032.

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

	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	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 Cumulative Impact

The combined cumulative impact of a new class D felony (nonviolent) and a new class B felony on the department is estimated to be 13 additional offenders in prison and 26 additional offenders on field supervision by FY 2032.

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	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	5	5	5	5	5	5	5	5	5	5
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	5	5	5	5	5	5	5	5	5	5
Cumulative Populations										
Prison	4	8	11	12	13	13	13	13	13	13
Parole	0	0	1	4	7	8	9	10	11	11
Probation	5	10	15	15	15	15	15	15	15	15
Impact										
Prison Population	4	8	11	12	13	13	13	13	13	13
Field Population	5	10	16	19	22	23	24	25	26	26
Population Change	9	18	27	31	35	36	37	38	39	39

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.

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.

	# 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	4	(\$9,499)	(\$31,663)	5	\$0	\$0	(\$31,663)
Year 2	8	(\$9,499)	(\$77,512)	10	\$0	\$0	(\$77,512)
Year 3	11	(\$9,499)	(\$108,710)	16	\$0	\$0	(\$108,710)
Year 4	12	(\$9,499)	(\$120,965)	19	\$0	\$0	(\$120,965)
Year 5	13	(\$9,499)	(\$133,666)	22	\$0	\$0	(\$133,666)
Year 6	13	(\$9,499)	(\$136,340)	23	\$0	\$0	(\$136,340)
Year 7	13	(\$9,499)	(\$139,066)	24	\$0	\$0	(\$139,066)
Year 8	13	(\$9,499)	(\$141,848)	25	\$0	\$0	(\$141,848)
Year 9	13	(\$9,499)	(\$144,685)	26	\$0	\$0	(\$144,685)
Year 10	13	(\$9,499)	(\$147,578)	26	\$0	\$0	(\$147,578)

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC’s estimated impact for fiscal note purposes.

Officials from the **Office of the State Public Defender, Missouri Office of Prosecution Services, Office of the State Courts Administrator, and Missouri Highway Patrol** 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.

Officials from the **St. Louis City Board of Elections** assume the creation of penalties for tampering with election officials could dissuade individuals from engaging in such conduct and encouraging staff to feel safer protected while working and could aid in employee retention, thus reducing replacement and retraining costs.

Officials from the **Jackson County Board of Elections, St. Charles County Board of Elections, Platte County Board of Elections, St. Louis County Board of Elections, and Greene County Clerk’s Office** 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, the Attorney General’s Office and other local election authorities 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	Fully Implemented (FY 2028)
GENERAL REVENUE				
Cost – DOC p. 3-6 §115.638 Increased incarceration costs	<u>(\$31,663)</u>	<u>(\$77,512)</u>	<u>(\$108,710)</u>	<u>(\$133,666)</u>
ESTIMATED NET EFFECT TO GENERAL REVENUE	<u>(\$31,663)</u>	<u>(\$77,512)</u>	<u>(\$108,710)</u>	<u>(\$133,666)</u>

<u>FISCAL IMPACT – Local 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 various provisions relating to elections.

Candidate Filing Deadlines - Local Offices
 (Section 115.127)

Under current law, the period for filing a declaration of candidacy in certain political subdivisions and special districts is from 8:00 a.m. on the 17th Tuesday prior to the election until 5:00 p.m. on the 14th Tuesday prior to the election. This act provides that if the 14th Tuesday prior to an election falls on a holiday, then the closing of filing shall be at 5:00 p.m. on the next day that is not a holiday.

Solicitation of Voter Registration by Public Officials
 (Section 115.205)

Under current law, a voter registration solicitor who solicits more than ten voter registration applications shall register for every election cycle. This act exempts governmental entities or a person who is paid or compensated by a governmental entity to solicit voter registration applications from the registration requirement.

Absentee Ballot Applications

(Section 115.284)

The act provides that all lists of absentee ballot applications for persons with permanent disabilities shall be kept confidential to the extent that such lists of applications shall not be posted or displayed in any area open to the general public, nor shall such lists of applications be shown to any person who is not entitled to see such lists of applications, pursuant to any other provisions of law.

Casting Provisional Ballots

(Section 115.427 and 115.430)

The act permits persons casting an absentee ballot in person to cast a provisional ballot if the person is otherwise qualified to vote and does not provide an approved form of identification. Furthermore, the act expands a provision of law governing the casting and counting of provisional ballots to all public elections, rather than just particular primary or general elections.

Election Offense - Electioneering Near Polling Places

(Section 115.637)

The act expands the offense of exit polling, surveying, sampling, electioneering, distributing election literature, posting signs or placing vehicles bearing signs with respect to any candidate or question to be voted on at an election to apply to polling places on Election Day as well as during the absentee voting period. Additionally, the act increases the distance that such activities must take place from the polling place from 25 feet to 75 feet. Violation of this provision is punishable by imprisonment of not more than 1 year or by a fine of not more than \$2,500 or by both such imprisonment and fine.

Tampering with an Election Official

(Section 115.638)

The act creates the offense of tampering with an election official. A person commits the offense of tampering with an election official if, with the purpose to harass or intimidate an election official in the performance of such official's official duties, such person:

- Threatens or causes harm to such election official or members of such election official's family;
- Uses force, threats, or deception against or toward such election official or members of such election official's family;
- Attempts to induce, influence, or pressure an election official or members of an election official's family to violate Missouri election law;
- Engages in conduct reasonably calculated to harass or alarm such election official or such election official's family, including stalking;
- Disseminates through any means, including by posting on the internet, the personal information of an election official or any member of an election official's family.

The offense of tampering with an election official shall be a class D felony. If a violation of this provision results in death or bodily injury to an election official or a member of the official's family, the offense shall be a class B 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

Department of Corrections
Missouri Highway Patrol
Office of the Secretary of State
Office of the State Public Defender
Missouri Office of Prosecution Services
Office of the State Courts Administrator
St. Charles County Board of Elections
St. Louis City Board of Elections
Jackson County Board of Elections
Platte County Board of Elections
St. Louis County Board of Elections
Greene County Clerk's Office



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