

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1857S.01I  
 Bill No.: SB 502  
 Subject: Crimes and Punishment; Firearms; Courts; Probation and Parole; Criminal Procedure; Prisons and Jails; Department of Corrections  
 Type: Original  
 Date: March 31, 2023

Bill Summary: This proposal modifies provisions relating to criminal laws.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
General Revenue*	\$0	\$0	(\$187,772)	(\$1,043,021)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$187,772)</b>	<b>(\$1,043,021)</b>

\*Beyond the impact reflected above, DOC notes an increase in the prison population by 2,232 offenders and a reduction in the field population by 744 offenders by FY 2050.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
General Revenue	0 FTE	0 FTE	0 FTE	1 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>0 FTE</b>	<b>0 FTE</b>	<b>0 FTE</b>	<b>1 FTE</b>

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

ASSUMPTION

§§558.016, 558.019, 571.015, and 571.070 – Criminal laws

Officials from the **Department of Corrections (DOC)** state this proposal modifies provisions relating to criminal laws. Section 571.015 defines Armed Criminal Action (ACA) as an unclassified felony and removes maximum sentence lengths and eligibility for parole from ACA offenses. Section 571.070 proposes to modify the felony class for unlawful possession of a firearm from a class D felony to a class C felony if the person has no history of a dangerous felony conviction or prior conviction for unlawful possession of a firearm and from a class C felony to a class B felony if the person has a prior conviction for a dangerous felony or a prior conviction for unlawful possession of a firearm.

Section 571.015 intends to extend the amount of time an offender spends in prison prior to first release when admitted on an ACA sentence and makes it an unclassified felony. Given ACA sentences are already defined as dangerous felonies, which require a minimum prison term of 85% of the length of the sentence prior to first release and current legislation requires all ACA sentences to be served consecutive to other sentences, DOC estimates that the proposed changes to the sentencing for ACA offenses presents minimal to no potential to impact department operations.

Section 558.019 removes section 571.015 from the list of exclusions for minimum prison terms and requires 85% of the sentence be served.

There were 372 offenders admitted to prison on a new ACA charge in FY 2022. Given the relatively long length of sentences and prison terms for offenders with ACA sentences, they do not expect to see the impact of the proposed changes in section 558.019 on offender populations until FY 2042. At that time, the requirement to serve at least 85% of ACA sentences, in addition to the existing requirement that those sentences be served consecutively, they expect the prison population to start to increase. The cumulative impact is expected to be an increase in the prison population by 2,232 offenders and a reduction in the field population by 744 offenders by FY 2050. The impacts of these changes are outside of the 10-year reporting scope; therefore, this section will have no impact for the current reporting period.

**Change in prison admissions and probation openings with legislation**

	FY2042	FY2043	FY2044	FY2045	FY2046	FY2047	FY2048	FY2049	FY2050	FY2051
<b>New Admissions</b>										
Current Law	372	372	372	372	372	372	372	372	372	372
After Legislation	372	372	372	372	372	372	372	372	372	372
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
<b>Change (After Legislation - Current Law)</b>										
Admissions	0	0	0	0	0	0	0	0	0	0
Probations	0	0	0	0	0	0	0	0	0	0
<b>Cumulative Populations</b>										
Prison	260	632	1,004	1,376	1,748	2,120	2,232	2,232	2,232	2,232
Parole	-260	-632	-1,004	-1,376	-1,748	-1,748	-1,488	-1,116	-744	-744
Probation	0	0	0	0	0	0	0	0	0	0
<b>Impact</b>										
Prison Population	260	632	1,004	1,376	1,748	2,120	2,232	2,232	2,232	2,232
Field Population	-260	-632	-1,004	-1,376	-1,748	-1,748	-1,488	-1,116	-744	-744
<b>Population Change</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>372</b>	<b>744</b>	<b>1,116</b>	<b>1,488</b>	<b>1,488</b>

Section 571.070 enhances the penalty for unlawful possession of a firearm. There were 96 offenders admitted to prison in FY 2022 on a new court commitment for unlawful possession of a firearm as their most serious sentence. Of those, 3 had a prior conviction for a dangerous felony or unlawful possession of a firearm. Therefore, DOC estimates the impact based on 93 new court commitments per year as class C felonies instead of class D felonies and 3 new court commitments per year as class B felonies instead of class C felonies.

Change from class D felony to class C felony

The difference in an average sentence length between a nonviolent class D felony and a class C felony is 1.9 years. The difference in average time to first release from prison for a nonviolent class D felony and a class C felony is 0.4 years. When these differences are applied to 93 new court commitments annually, this equates to maximum cumulative impact of approximately 84 additional offenders in prison and 93 additional offenders on field supervision after seven years.

**Change in prison admissions and probation openings with legislation**

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
<b>New Admissions</b>										
Current Law	93	93	93	93	93	93	93	93	93	93
After Legislation	93	93	93	93	93	93	93	93	93	93
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
<b>Change (After Legislation - Current Law)</b>										
Admissions										
Probations										
<b>Cumulative Populations</b>										
Prison			19	84	84	84	84	84	84	84
Parole			-19	-84	-84	9	93	93	93	93
Probation										
<b>Impact</b>										
Prison Population			19	84	84	84	84	84	84	84
Field Population			-19	-84	-84	9	93	93	93	93
<b>Population Change</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>93</b>	<b>177</b>	<b>177</b>	<b>177</b>	<b>177</b>

**Change from class C felony to class B felony**

The difference in an average sentence length between a class C felony and a class D felony is 2.1 years. The difference in average time to first release from prison for a class C felony and a class D felony is 1.3 years. When these differences are applied to 3 new court commitments annually, this equates to maximum cumulative impact of approximately 5 additional offenders in prison and (5) additional offenders on field supervision after six years.

**Change in prison admissions and probation openings with legislation**

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
<b>New Admissions</b>										
Current Law	3	3	3	3	3	3	3	3	3	3
After Legislation	3	3	3	3	3	3	3	3	3	3
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
<b>Change (After Legislation - Current Law)</b>										
Admissions										
Probations										
<b>Cumulative Populations</b>										
Prison				1	4	5	5	5	5	5
Parole				-1	-4	-5	-4	-1	2	2
Probation										
<b>Impact</b>										
Prison Population				1	4	5	5	5	5	5
Field Population				-1	-4	-5	-4	-1	2	2
<b>Population Change</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>4</b>	<b>7</b>	<b>7</b>

**Combined Estimated Cumulative Impact**

The combined estimated cumulative impact of the proposed legislative changes is 89 additional offenders in prison and 89 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
<b>New Admissions</b>										
Current Law	96	96	96	96	96	96	96	96	96	96
After Legislation	96	96	96	96	96	96	96	96	96	96
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
<b>Change (After Legislation - Current Law)</b>										
Admissions	0	0	0	0	0	0	0	0	0	0
Probations	0	0	0	0	0	0	0	0	0	0
<b>Cumulative Populations</b>										
Prison	0	0	19	85	88	89	89	89	89	89
Parole	0	0	-19	-85	-88	4	89	92	95	95
Probation	0	0	0	0	0	0	0	0	0	0
<b>Impact</b>										
Prison Population	0	0	19	85	88	89	89	89	89	89
Field Population	0	0	-19	-85	-88	4	89	92	95	95
<b>Population Change</b>	0	0	0	0	0	93	178	181	184	184

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total savings or cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	0	(\$9,499)	\$0	0	\$0	0	\$0
Year 2	0	(\$9,499)	\$0	0	\$0	0	\$0
Year 3	19	(\$9,499)	(\$187,772)	0	\$0	(19)	(\$187,772)
Year 4	85	(\$9,499)	(\$856,835)	(1)	\$78,903	(85)	(\$777,932)
Year 5	88	(\$9,499)	(\$904,818)	(1)	\$79,747	(88)	(\$825,071)
Year 6	89	(\$9,499)	(\$933,402)	0	\$0	4	(\$933,402)
Year 7	89	(\$9,499)	(\$952,070)	1	(\$90,951)	89	(\$1,043,021)
Year 8	89	(\$9,499)	(\$971,111)	1	(\$82,344)	92	(\$1,053,456)
Year 9	89	(\$9,499)	(\$990,534)	1	(\$83,228)	95	(\$1,073,762)
Year 10	89	(\$9,499)	(\$1,010,344)	1	(\$84,124)	95	(\$1,094,468)

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.

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

In response to similar legislation from 2022 (SB 850), officials from the **Attorney General's Office** and the **Office of the State Courts Administrator** assumed 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.

<u>FISCAL IMPACT</u> <u>– State</u> <u>Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2030)
<b>GENERAL REVENUE</b>				
<u>Cost – DOC</u> (§571.070)				
Personal service	\$0	\$0	\$0	(\$44,318)
Fringe benefits	\$0	\$0	\$0	(\$33,125)
Equipment and expense	\$0	\$0	\$0	(\$13,508)
Increased incarceration costs	\$0	\$0	(\$187,772)	(\$952,070)
<b>Total cost - DOC</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$187,772)</b>	<b>(\$1,043,021)</b>
FTE Change - DOC	0 FTE	0 FTE	0 FTE	1 FTE
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$187,772)</b>	<b>(\$1,043,021)</b>
Estimated Net FTE Change to the General Revenue Fund	0 FTE	0 FTE	0 FTE	1 FTE

<u>FISCAL IMPACT</u> <u>– Local</u> <u>Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2030)
	\$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

This act modifies provisions relating to criminal laws.

OFFENSE OF UNLAWFUL POSSESSION OF FIREARMS (Section 571.070)

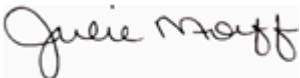
Under current law, unlawful possession of a firearm is a class D felony, unless a person has been convicted of a dangerous felony then it is a class C felony.

This act changes the penalty for the offense to a class C felony, unless a person has been convicted of a dangerous felony or the person has a prior conviction for unlawful possession of a firearm, then it is a class B felony.

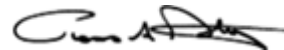
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

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



Julie Morff  
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March 31, 2023



Ross Strope  
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March 31, 2023