

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5063S.03I
Bill No.: SB 1331
Subject: Crimes and Punishment; Immigration
Type: Original
Date: February 7, 2024

Bill Summary: This proposal creates the offense of improper entry by an alien.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue	(\$8,074)	(\$19,766)	(\$20,161)
Total Estimated Net Effect on General Revenue	(\$8,074)	(\$19,766)	(\$20,161)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Local Government	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

§577.690 – Improper entry by an alien

Officials from the **Department of Corrections (DOC)** state this proposal creates the offense of improper entry by an alien. Section 577.690 creates the offense of improper entry by an alien with a \$10,000 penalty for the first offense, and a class E felony for second or subsequent offenses.

As these are new crimes, there is little direct data on which to base an estimate, and as such, the department estimates an impact comparable to the creation of a new class E felony.

For each new nonviolent class E felony, the department estimates one person could be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2027.

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

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
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	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

	# 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	1	(\$9,689)	(\$8,074)	0	\$0	2	(\$8,074)
Year 2	2	(\$9,689)	(\$19,766)	0	\$0	4	(\$19,766)
Year 3	2	(\$9,689)	(\$20,161)	0	\$0	7	(\$20,161)
Year 4	2	(\$9,689)	(\$20,564)	0	\$0	7	(\$20,564)
Year 5	2	(\$9,689)	(\$20,975)	0	\$0	7	(\$20,975)
Year 6	2	(\$9,689)	(\$21,395)	0	\$0	7	(\$21,395)
Year 7	2	(\$9,689)	(\$21,823)	0	\$0	7	(\$21,823)
Year 8	2	(\$9,689)	(\$22,259)	0	\$0	7	(\$22,259)
Year 9	2	(\$9,689)	(\$22,704)	0	\$0	7	(\$22,704)
Year 10	2	(\$9,689)	(\$23,159)	0	\$0	7	(\$23,159)

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 \$26.545 per day or an annual cost of \$9,689 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 \$99.90 per day or an annual cost of \$36,464 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 impact for fiscal note purposes.

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. However, the AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from the **Office of the State Public Defender (SPD)** state per the recently released National Public Defense Workload Study, the new charge contemplated by the change to Section 577.690 would take approximately thirty-five hours of SPD work for reasonably effective representation. If one hundred cases were filed under this section in a fiscal year, representation would result in a need for an additional one to two attorneys. Because the number of cases that will be filed under this statute is unknown, the exact additional number of attorneys necessary is unknown. Each case would also result in unknown increased costs in the need for core staff, travel, and litigation expenses.

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 creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

Oversight notes that violations of section 577.690 could result in fines or penalties. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fine varies widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Officials from the **Department of Natural Resources, the Department of Public Safety - Missouri Highway Patrol, the Missouri Department of Conservation, the Office of the State Courts Administrator, the City of Kansas City, the City of Osceola, the Phelps County Sheriff's Department, the Kansas City Police Department, and the St. Louis County Police Department** 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, other cities, counties, circuit clerks, local law enforcement, the Kansas City Port Authority and the Marion County Port Authority 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 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Costs – DOC (\$577.690) Increased incarceration costs p. 3-4</u>	<u>(\$8,074)</u>	<u>(\$19,766)</u>	<u>(\$20,161)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$8,074)</u>	<u>(\$19,766)</u>	<u>(\$20,161)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue – School districts (\$577.690) Potential fine revenue p. 5</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</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 creates the offense of improper entry by an alien. A person commits the offense of improper entry by an alien if the person enters this state at a time when they are unlawfully present in this country under federal law.

The offense of improper entry by an alien is punishable by a fine of \$10,000 and shall be subject to an order of removal to a federal port of entry, as provided in the act. For all subsequent

offenses, the offense is a class E felony, subject to a term of imprisonment of 1-7 years and a \$10,000 fine and additionally shall be subject to an order of removal to a federal port of entry upon the completion of any prison term.

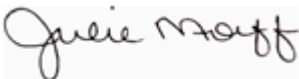
Any person serving a term of imprisonment for violation of this act may petition the circuit court for an order of removal in lieu of serving out the term of imprisonment. Such a request shall be granted absent aggravating circumstances. Any person granted such a petition who thereafter returns to this state in violation of federal law shall be subject to completion of the unfinished term of imprisonment and may not apply for any further order of removal.

The act allows any law enforcement officer whose duty it is to enforce criminal laws to arrest or detain such person upon probable cause that a person who has violated this act.

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 Natural Resources
Department of Public Safety - Missouri Highway Patrol
Missouri Department of Conservation
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
City of Kansas City
City of Osceola
Phelps County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department



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