

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5260S.01I  
Bill No.: SB 1400  
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies; Judges; Courts;  
Attorneys; Internet and E-Mail  
Type: Original  
Date: April 22, 2024

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Bill Summary: This proposal modifies provisions relating to the offense of posting unlawful information.

**FISCAL SUMMARY**

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

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</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>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

**§565.240 – Unlawful posting of information**

Officials from the **Department of Corrections (DOC)** state this proposal modifies the offense posting unlawful information. Section 565.240 modifies penalties for the offense of unlawful posting of certain information over the internet as described in subdivision 1 of subsection 1 and creates a new penalty for the offense as described in subdivision 2 of subsection 1. Penalties for the offense in subdivision 1 are changed from a class C misdemeanor to a class E felony, from a class E felony to a class D felony, and from a class D felony to a class C felony. The penalty for the offense in subdivision 2 is a new class E felony.

There were no new misdemeanor convictions or new felony court commitments or new felony probation cases under section 565.240 in FY 2023. Therefore, the department estimates no impact from the changes to penalties associated with the offense in subdivision 1.

As the offense in subdivision 2 is a new crime, 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
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
<b>Change (After Legislation - Current Law)</b>										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
<b>Cumulative Populations</b>										
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
<b>Impact</b>										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
<b>Population Change</b>	<b>3</b>	<b>6</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>

	# to prison	Cost per year	Total Costs for <b>prison</b>	Change in probation & parole officers	Total cost for <b>probation and parole</b>	# 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 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.

**Oversight** could not find any felony convictions under Section 565.240 for the past 5 fiscal years.

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 565.240 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.

In response to similar legislation from 2024 (HB 2219), officials from the **Office of Attorney General (AGO)** assumed 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 **Department of Natural Resources**, the **Department of Public Safety – (Capitol Police and Missouri Highway Patrol)**, the **Department of Social Services**, the **Missouri Department of Conservation**, the **Phelps County Sheriff's Department**, the **Branson Police 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.

In response to similar legislation from 2024 (HB 2219), officials from the **Missouri Office of Prosecution Services** and **Office of the State Courts Administrator** 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.

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, other local law enforcement 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
<b>GENERAL REVENUE</b>			
<u>Costs – DOC (\$565.240) Increased incarceration costs</u>	<u>(\$8,074)</u>	<u>(\$19,766)</u>	<u>(\$20,161)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$8,074)</u></b>	<b><u>(\$19,766)</u></b>	<b><u>(\$20,161)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

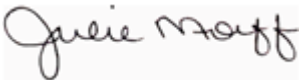
Under current law, a person commits the offense of unlawful posting of certain information if he or she knowingly posts certain information to cause great bodily harm or death, or threatening to cause harm or death. This act adds that a person shall also commit such offense if he or she knowingly posts certain information to intimidate or harass such person or obtain financial gain from such person and such offense shall be a class E felony.

This act also changes the penalty from a class C misdemeanor to a class E felony if a person causes harm or death of another by posting unlawful information. This act also changes the penalty from a class E felony to a class D felony if a person threatens harm or death to a law enforcement officer, judge, and other public safety officers and from a class D felony to a class C felony if the person causes harm or death to a law enforcement officer, judge, and other public safety officers.

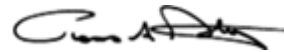
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office  
Department of Corrections  
Department of Natural Resources  
Department of Public Safety  
Department of Social Services  
Missouri Department of Conservation  
Missouri Office of Prosecution Services  
Office of the State Courts Administrator  
Office of the State Public Defender  
Phelps County Sheriff's Department  
Branson Police Department  
Kansas City Police Department  
St. Louis County Police Department



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