

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0435S.02I
Bill No.: SB 397
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies; Judges; Courts;
Attorneys; Internet and E-Mail; Evidence
Type: Original
Date: March 3, 2025

Bill Summary: This proposal modifies provisions relating to judicial proceedings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
General Revenue	(\$61,162)	(\$149,726)	(\$196,355)	(\$338,324)
Total Estimated Net Effect on General Revenue	(\$61,162)	(\$149,726)	(\$196,355)	(\$338,324)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
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 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
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 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§490.692 – Affidavits related to business records

Officials from the **Department of Corrections (DOC)** state this proposal adds subsection 6 to section 490.692, making the falsification of an affidavit related to business records subject to criminal penalties pursuant to section 575.040. In that section, perjury is punishable as a class E felony, a class D felony, a class B felony, or a class A felony, depending on the circumstances.

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 have an average sentence length of 17.1 years and serve, on average, 12.3 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 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 2035 is 10 additional offenders in prison.

Change in prison admissions and probation openings with legislation

	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034	FY2035
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

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, have 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.

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

	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034	FY2035
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

For each new nonviolent class D felony, the department estimates three people could 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.

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

	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034	FY2035
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

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.

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

	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034	FY2035
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

§565.240 – Unlawful posting of information

DOC states §565.240 modifies penalties for the offense of unlawful posting of certain information over the internet as described in subdivision 1 of subsection 1 of section 565.240 and creates a new penalty for the offense as described in subdivision 2 of subsection 1 of section 565.240. 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 2024. Therefore, the department estimates no impact from the changes to penalties associated with the offense in subdivision 1.

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.

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

	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034	FY2035
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

Combined Cumulative Estimated Impact

The combined cumulative estimated impact on the department is 27 additional offenders in prison and 40 additional offenders on field supervision by FY 2035.

Change in prison admissions and probation openings with legislation

	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034	FY2035
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	9	9	9	9	9	9	9	9	9	9
Change (After Legislation - Current Law)										
Admissions	7	7	7	7	7	7	7	7	7	7
Probations	9	9	9	9	9	9	9	9	9	9
Cumulative Populations										
Prison	7	14	18	20	22	23	24	25	26	27
Parole	0	0	3	6	9	10	11	12	13	13
Probation	9	18	27	27	27	27	27	27	27	27
Impact										
Prison Population	7	14	18	20	22	23	24	25	26	27
Field Population	9	18	30	33	36	37	38	39	40	40
Population Change	16	32	48	53	58	60	62	64	66	67

	# 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	7	(\$10,485)	(\$61,162)	0	\$0	9	(\$61,162)
Year 2	14	(\$10,485)	(\$149,726)	0	\$0	18	(\$149,726)
Year 3	18	(\$10,485)	(\$196,355)	0	\$0	30	(\$196,355)
Year 4	20	(\$10,485)	(\$222,535)	0	\$0	33	(\$222,535)
Year 5	22	(\$10,485)	(\$249,684)	0	\$0	36	(\$249,684)
Year 6	23	(\$10,485)	(\$266,254)	0	\$0	37	(\$266,254)
Year 7	24	(\$10,485)	(\$283,387)	0	\$0	38	(\$283,387)
Year 8	25	(\$10,485)	(\$301,099)	0	\$0	39	(\$301,099)
Year 9	26	(\$10,485)	(\$319,406)	0	\$0	40	(\$319,406)
Year 10	27	(\$10,485)	(\$338,324)	0	\$0	40	(\$338,324)

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 \$28.73 per day or an annual cost of \$10,485 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 \$100.25 per day or an annual cost of \$36,591 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 the State Public Defender (SPD)** states 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.

Responses regarding the proposed legislation as a whole

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 Secretary of State (SOS)** note 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 its 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.

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 **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, 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 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 2026 (10 Mo.)	FY 2027	FY 2028	Fully Implemented (FY 2035)
GENERAL REVENUE				
<u>Cost – DOC (§§490.692 and 565.240) Increased incarceration costs</u>	<u>(\$61,162)</u>	<u>(\$149,726)</u>	<u>(\$196,355)</u>	<u>(\$338,324)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$61,162)</u>	<u>(\$149,726)</u>	<u>(\$196,355)</u>	<u>(\$338,324)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028	Fully Implemented (FY 2035)
	<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 provisions relating to judicial proceedings.

BUSINESS RECORDS ENTERED INTO EVIDENCE (Section 490.692)

Under current law, certain business records must be notarized in order to be entered into evidence in court.

This act repeals those requirements and provides that such records shall not be deemed invalid for the reason that it uses an electronic signature or that it does not include a notarization. Additionally, any affidavit falsely made shall subject the signer to criminal penalties.

OFFENSE OF UNLAWFUL POSTING OF CERTAIN INFORMATION (Section 565.240)

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. This act adds that a person shall also commit such offense if he or she knowingly posts the Social Security number of a person 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 the name, home address, Social Security number, telephone number, or any other personally identifiable 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 Secretary of State
Office of the State Courts Administrator
Office of the State Public Defender

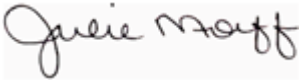
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Phelps County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department

A handwritten signature in cursive script, appearing to read "Julie Morff".

Julie Morff
Director
March 3, 2025

A handwritten signature in cursive script, appearing to read "Jessica Harris".

Jessica Harris
Assistant Director
March 3, 2025