

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1340S.01I
 Bill No.: SB 168
 Subject: Civil Procedure; Courts; Crimes and Punishment; Criminal Procedure; Property,
 Real and Personal
 Type: Original
 Date: January 30, 2025

Bill Summary: This proposal modifies provisions relating to the removal of persons unlawfully occupying property with a residential dwelling through ex parte orders.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue	Could exceed (\$17,475)	Could exceed (\$42,779)	Could exceed (\$43,634)
Total Estimated Net Effect on General Revenue	Could exceed (\$17,475)	Could exceed (\$42,779)	Could exceed (\$43,634)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§534.602, 534.604, and 569.200 – Criminal mischief

Officials from the **Department of Corrections (DOC)** state this proposal modifies provisions relating to the removal of persons unlawfully occupying property with a residential dwelling through ex parte orders.

Section 534.604 increases the penalty for the violation of the terms and conditions of an ex parte order under section 534.602 from a class A misdemeanor to a class E felony.

Section 569.200 modifies the offense of criminal mischief, increases the penalty from a class A misdemeanor to a class E felony.

Sections 534.604 and 569.200 were passed into legislation during the FY 2024 legislative session, with an effective date of August 28, 2024. Currently, there is not yet enough data on the number of misdemeanors associated with these sections over a full fiscal year. As there is little direct data on which to base an estimate, the department estimates an impact comparable to the creation of two new class E felonies.

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 4 additional offenders in prison and 14 additional offenders on field supervision by FY 2028.

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	2	2	2	2	2	2	2	2	2	2
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	2	4	4	4	4	4	4	4	4	4
Parole	0	0	2	2	2	2	2	2	2	2
Probation	4	8	12	12	12	12	12	12	12	12
Impact										
Prison Population	2	4	4	4	4	4	4	4	4	4
Field Population	4	8	14	14	14	14	14	14	14	14
Population Change	6	12	18	18	18	18	18	18	18	18

	# 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	2	(\$10,485)	(\$17,475)	0	\$0	4	(\$17,475)
Year 2	4	(\$10,485)	(\$42,779)	0	\$0	8	(\$42,779)
Year 3	4	(\$10,485)	(\$43,634)	0	\$0	14	(\$43,634)
Year 4	4	(\$10,485)	(\$44,507)	0	\$0	14	(\$44,507)
Year 5	4	(\$10,485)	(\$45,397)	0	\$0	14	(\$45,397)
Year 6	4	(\$10,485)	(\$46,305)	0	\$0	14	(\$46,305)
Year 7	4	(\$10,485)	(\$47,231)	0	\$0	14	(\$47,231)
Year 8	4	(\$10,485)	(\$48,176)	0	\$0	14	(\$48,176)
Year 9	4	(\$10,485)	(\$49,139)	0	\$0	14	(\$49,139)
Year 10	4	(\$10,485)	(\$50,122)	0	\$0	14	(\$50,122)

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 State Courts Administrator (OSCA)** state there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Oversight notes OSCA assumes this proposal may have some impact on their organization although it can't be quantified at this time. As OSCA is unable to provide additional information regarding the potential impact, Oversight assumes the proposed legislation will have a \$0 to (Unknown) cost to the General Revenue Fund. For fiscal note purposes, Oversight also assumes the impact will be under \$250,000 annually. If this assumption is incorrect, this would alter the fiscal impact as presented in this fiscal note. If additional information is received, Oversight will review it to determine if an updated fiscal note should be prepared and seek approval to publish a new fiscal note.

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

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 Commerce and Insurance**, the **Department of Public Safety - Missouri Highway Patrol**, the **Missouri Office of Prosecution Services**, the **Office of the State Public Defender**, the **City of Kansas City**, 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 only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, circuit clerks, and 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
GENERAL REVENUE			
Cost – DOC (§§534.604 and 569.200) Increased incarceration costs	(\$17,475)	(\$42,779)	(\$43,634)
Cost – OSCA (§§534.604 and 569.200) Potential cost relating to unlawfully occupying property	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Could exceed</u> <u>(\$17,475)</u>	<u>Could exceed</u> <u>(\$42,779)</u>	<u>Could exceed</u> <u>(\$43,634)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
	<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.

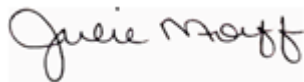
FISCAL DESCRIPTION

UNLAWFULLY OCCUPYING PROPERTY (Sections 534.602, 534.604, and 569.200)
 This act modifies provisions relating to the removal of persons unlawfully occupying property with a residential dwelling through ex parte orders. Specifically, hearings for the ex parte orders shall be held within twenty-four hours, rather than forty-eight hours, of the filing of the verified petition. Additionally, this act provides procedures for verified petitions filed on evenings, holidays, or weekends. A violation of an ex parte order for removal of persons unlawfully occupying property with residential dwelling shall be a class E felony, instead of class A misdemeanor. Additionally, this act provides that the offense of criminal mischief for unlawful detention, occupation, or trespass upon a residential dwelling shall be a class E felony, instead of class A misdemeanor.

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 Commerce and Insurance
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
City of Kansas City
Phelps County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department



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January 30, 2025



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