

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1363S.01I
Bill No.: SB 411
Subject: Civil Procedure; Crimes and Punishment; Criminal Procedure; Internet and E-Mail; Liability
Type: Original
Date: March 3, 2025

Bill Summary: This proposal establishes provisions relating to the civil and criminal liability of disclosure of intimate digital depictions.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2026	FY 2027	FY 2028	Fully Implemented (FY 2029)
General Revenue	Could exceed (\$43,687)	Could exceed (\$106,947)	Could exceed (\$152,720)	Could exceed (\$189,155)
Total Estimated Net Effect on General Revenue	Could exceed (\$43,687)	Could exceed (\$106,947)	Could exceed (\$152,720)	Could exceed (\$189,155)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2026	FY 2027	FY 2028	Fully Implemented (FY 2029)
Total Estimated Net Effect on Other 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 2029)
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 2029)
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 2029)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§537.043 and 573.570 – Disclosure of intimate digital depictions

Officials from the **Department of Corrections (DOC)** state this proposal establishes provisions relating to the civil and criminal liability of disclosure of intimate digital depictions.

Creates sections 537.043 and 573.570, including the offense of disclosure of an intimate digital depiction. The penalty for this offense is a class E felony, unless it is a second or subsequent offense or it is reasonable to expect that the offense could impact government activity or facilitate violence, in which case it is a class C felony.

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 and C 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 could be served in prison with 1.4 years to first release. The remaining 1.3 years could be on parole. Probation sentences could 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

For each new class C felony, the department estimates four people could be sentenced to prison and six to probation. The average sentence for a class C felony offense is 6.9 years, of which 3.7 years could be served in prison with 2.1 years to first release. The remaining 3.2 years could be on parole. Probation sentences could be 3 years.

Change in prison admissions and probation openings with legislation-Class C 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	4	4	4	4	4	4	4	4	4	4
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
Prison	4	8	12	15	15	15	15	15	15	15
Parole				1	5	9	13	13	13	13
Probation	6	12	18	18	18	18	18	18	18	18
Impact										
Prison Population	4	8	12	15	15	15	15	15	15	15
Field Population	6	12	18	19	23	27	31	31	31	31
Population Change	10	20	30	34	38	42	46	46	46	46

Combined Cumulative Estimated Impact

The combined cumulative estimated impact on the department is 17 additional offenders in prison and 26 additional offenders on field supervision by FY 2029.

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	5	5	5	5	5	5	5	5	5	5
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	8	8	8	8	8	8	8	8	8	8
Change (After Legislation - Current Law)										
Admissions	5	5	5	5	5	5	5	5	5	5
Probations	8	8	8	8	8	8	8	8	8	8
Cumulative Populations										
Prison	5	10	14	17	17	17	17	17	17	17
Parole	0	0	1	2	6	10	14	14	14	14
Probation	8	16	24	24	24	24	24	24	24	24
Impact										
Prison Population	5	10	14	17	17	17	17	17	17	17
Field Population	8	16	25	26	30	34	38	38	38	38
Population Change	13	26	39	43	47	51	55	55	55	55

	# 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	5	(\$10,485)	(\$43,687)	0	\$0	8	(\$43,687)
Year 2	10	(\$10,485)	(\$106,947)	0	\$0	16	(\$106,947)
Year 3	14	(\$10,485)	(\$152,720)	0	\$0	25	(\$152,720)
Year 4	17	(\$10,485)	(\$189,155)	0	\$0	26	(\$189,155)
Year 5	17	(\$10,485)	(\$192,938)	0	\$0	30	(\$192,938)
Year 6	17	(\$10,485)	(\$196,797)	0	\$0	34	(\$196,797)
Year 7	17	(\$10,485)	(\$200,733)	0	\$0	38	(\$200,733)
Year 8	17	(\$10,485)	(\$204,747)	0	\$0	38	(\$204,747)
Year 9	17	(\$10,485)	(\$208,842)	0	\$0	38	(\$208,842)
Year 10	17	(\$10,485)	(\$213,019)	0	\$0	38	(\$213,019)

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 the State Public Defender (SPD)** state per the National Public Defense Workload Study, the new charge contemplated by this change to Section 573.570, would take approximately fifty-seven 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 three 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 **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 **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The enactment of a new crime [573.570] creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

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 Health and Senior Services**, the **Department of Mental Health**, the **Department of Labor and Industrial Relations**, the **Department of Public Safety – Missouri Highway Patrol**, the **Department of Social Services**, 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.

<u>FISCAL IMPACT</u> <u>– State</u> <u>Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028	Fully Implemented (FY 2029)
GENERAL REVENUE				
<u>Cost – DOC</u> (§§537.043 and 573.570) Increased incarceration costs	(\$43,687)	(\$106,947)	(\$152,720)	(\$189,155)
<u>Cost – OSCA</u> (§§537.043 and 573.570) Potential cost relating to the disclosure of intimate digital depictions	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Could exceed</u> <u>(\$43,687)</u>	<u>Could exceed</u> <u>(\$106,947)</u>	<u>Could exceed</u> <u>(\$152,720)</u>	<u>Could exceed</u> <u>(\$189,155)</u>

<u>FISCAL IMPACT</u> <u>– Local</u> <u>Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028	Fully Implemented (FY 2029)
	<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 DESCRIPTIONDISCLOSURE OF INTIMATE DIGITAL DEPICTIONS (Sections 537.043 and 573.570)

This act establishes "The Taylor Swift Act" which establishes a cause of action by an individual who is the subject of an intimate digital depiction against a person who discloses such depiction and who knows or recklessly disregards the fact that the individual has not consented to such disclosure as provided in the act. The depicted individual may recover damages as described in the act along with injunctive relief. An action shall not be brought if the disclosure was made in good faith to or by a law enforcement officer in the course of reporting or investigating unlawful conduct or as part of a legal proceeding. Additionally, an action shall not be brought if the disclosure was a matter of legitimate public concern or interest or if the disclosure reasonably intended to assist the depicted individual.

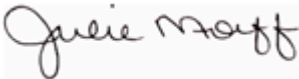
This act provides that a person commits the offense of disclosure of an intimate digital depiction if the person discloses, or threatens to disclose, an intimate digital depiction with the intent to harass, annoy, threaten, alarm, or cause substantial harm to the finances or reputation of the depicted individual or with the actual knowledge that or reckless disregard for whether such disclosure or threat of disclosure will cause harm to the depicted individual. Any such person shall be guilty of a class E felony for the first offense or a class C felony for any second and subsequent offenses or if the actions could reasonably be expected to affect the conduct of governmental proceedings or facilitate violence.

Furthermore, it shall not be a defense to civil or criminal actions brought pursuant to this act that there is a disclaimer stating that the digital depiction was unauthorized or that the depicted individual did not participate in the creation or development of the digital depiction. Lastly, a provider of an interactive computer service shall not be held civilly or criminally liable under this act for actions voluntarily taken in good faith to restrict access to or availability of intimate digital depictions or actions taken to enable or make available to information content providers or other persons the technical means to restrict access to intimate digital depictions.

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 Health and Senior Services
Department of Labor and Industrial Relations
Department of Mental Health
Department of Public Safety – Missouri Highway Patrol
Department of Social Services
Missouri Office of Prosecution Services
Office of the Secretary of State
Office of the State Courts Administrator
Office of the State Public Defender
Phelps County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department



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