

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5657S.01I
Bill No.: SB 949
Subject: Crimes and Punishment; Judges
Type: Original
Date: January 27, 2026

Bill Summary: This proposal creates the offense of judicial malfeasance.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue*	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$23,145 to Unknown)
Total Estimated Net Effect on General Revenue	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$23,145 to Unknown)

*DOC notes that current capacity will be met by July 2029 (FY 2030) or potentially much sooner. Therefore, Oversight has made the decision to reflect the marginal cost of incarceration up to an unknown cost if DOC needs to add staff and/or rehabilitate, expand or construct additional capacity. Oversight assumes the unknown cost has the potential to exceed \$250,000.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
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 2027	FY 2028	FY 2029
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

FUND AFFECTED	FY 2027	FY 2028	FY 2029
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 2027	FY 2028	FY 2029
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Office of Prosecution Services** did not respond to **Oversight's** request for fiscal impact for this proposal.

§575.340 – Judicial Malfeasance

Officials from the **Department of Corrections (DOC)** state this proposal creates the offense of judicial malfeasance.

This legislation creates section 575.340. A person commits the offense of judicial malfeasance if the person, while performing the duties of a judge in this state, releases an individual who is a prior offender or a persistent offender during the pendency of a criminal trial and such individual commits a felony during such release. The offense of judicial malfeasance shall be a 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 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.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2029.

The department assumes a marginal cost (times number of offenders) to unknown, depending on the underlying offender population. If DOC exceeds the current capacity, additional capacity will need to be constructed.

	# 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	(\$11,123)	(\$9,269)	0	\$0	2	(\$9,269)
Year 2	2	(\$11,123)	(\$22,691)	0	\$0	4	(\$22,691)
Year 3	2	(\$11,123)	(\$23,145)	0	\$0	7	(\$23,145)
Year 4	2	(\$11,123)	(\$23,608)	0	\$0	7	(\$23,608)
Year 5	2	(\$11,123)	(\$24,080)	0	\$0	7	(\$24,080)
Year 6	2	(\$11,123)	(\$24,561)	0	\$0	7	(\$24,561)
Year 7	2	(\$11,123)	(\$25,053)	0	\$0	7	(\$25,053)
Year 8	2	(\$11,123)	(\$25,554)	0	\$0	7	(\$25,554)
Year 9	2	(\$11,123)	(\$26,065)	0	\$0	7	(\$26,065)
Year 10	2	(\$11,123)	(\$26,586)	0	\$0	7	(\$26,586)

The department will assume a marginal cost (multiplied by number of offenders) for any projected increase or decrease in the incarcerated population. Marginal cost is \$30.47 per day or an annual cost of \$11,123 per offender which includes costs such as medical, food, wages and operational E&E. The unknown amount is a result of the uncertainty in the growth of the underlying offender population. The impact of any new legislation combined with the growth of the underlying population could result in the tiered approach below in order to meet the population demands.

1. Fully staffing the current capacity (27,368) which is habitable, but DOC does not have the staffing resources for all bed space.
2. Rehabilitating current space that is not currently habitable and obtaining staffing resources for that space (requires capital improvements).
3. Expanding new capacity by adding housing units or wings to existing prisons and obtaining staffing resources for that space (requires capital improvements).
4. Constructing a new prison and obtaining staffing resources. Based on current construction projects in other Midwest states, the department estimates the cost of constructing a new 1,500-bed maximum security prison at approximately \$825 million to \$900 million plus annual operating costs of approximately \$50 million (requires capital improvements).

The department's population projections indicate current physical capacity will be met by July 2029; however recent trends indicate that capacity could be met much sooner. Should new construction be the result of the increasing offender population, the full cost per day per offender would be used which is \$106.96 or an annual cost of \$39,040. This includes all items in the marginal cost calculation plus fringe, personal service, utilities, etc.

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.

* 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.

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 or (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 **Attorney General's Office, Department of Public Safety - Missouri Highway Patrol, Office of the State Public Defender, and Missouri State Employee's Retirement System** 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 – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
GENERAL REVENUE			
<u>Cost – DOC (§575.340) Increased incarceration costs p.3-5</u>	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$23,145 to Unknown)
<u>Cost – OSCA (§575.340) Potential costs relating to the offense of judicial malfeasance p.5</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$23,145 to Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTIONJUDICIAL MALFEASANCE (Section 575.340)

This act creates the offense of judicial malfeasance. A person commits the offense if the person, while performing the duties of a judge, releases an individual who is a prior or persistent offender during the pendency of a criminal trial and such individual commits a felony during such release. The offense of judicial malfeasance shall be a class E felony. Any person charged or convicted with the offense of judicial malfeasance shall be referred to the Commission on Retirement, Removal, and Discipline for disqualification, removal, and suspension.

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

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Office of the State Courts Administrator
Office of the State Public Defender
Missouri State Employee's Retirement System



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