

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5808S.01I
Bill No.: SB 881
Subject: Attorney General; Civil Procedure; Contracts and Contractors; Federal - State Relations; Liability
Type: Original
Date: January 13, 2026

Bill Summary: This proposal establishes provisions relating to the funding of legal actions, including foreign funding and litigation funding agreements.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue *	(\$27,808 to Unknown)	(\$68,076 to Unknown)	(\$69,434 to Unknown)
Total Estimated Net Effect on General Revenue	(\$27,808 to Unknown)	(\$68,076 to Unknown)	(\$69,434 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 Other 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 All 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 a statement of fiscal impact.

§§436.575, 436.580, 436.585, and 436.590 – Funding of Legal Actions

Officials from the **Department of Corrections (DOC)** state §436.590 creates an offense pursuant to §407.020 when a person violates any provision of §§ 436.575 to 436.590 and allows the penalties within §§407.00 to 407.130 to be taken. There are two class E felonies within §§407.020 and 407.130. In addition, this legislation creates a new class E felony when a person willfully and knowingly engages in any act or practice declared to be unlawful by any provision of §436.580.

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 three new class E felonies.

For each new nonviolent class E felony, the DOC 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, with 1.4 years served in prison prior to first release. Probation sentences will be 3 years. The combined cumulative impact of three new nonviolent Class E felonies would be 6 additional offenders in prison and 21 additional offenders under field supervision by FY 2029.

	# to prison	Cost per year	Total Costs for prison	Total cost			Grand Total - Prison and Probation (includes 2% inflation)
				Change in probation & parole officers	probation and parole	# to probation & parole	
Year 1	3	(\$11,123)	(\$27,808)	0	\$0	6	(\$27,808)
Year 2	6	(\$11,123)	(\$68,073)	0	\$0	12	(\$68,073)
Year 3	6	(\$11,123)	(\$69,434)	0	\$0	21	(\$69,434)
Year 4	6	(\$11,123)	(\$70,823)	0	\$0	21	(\$70,823)
Year 5	6	(\$11,123)	(\$72,239)	0	\$0	21	(\$72,239)
Year 6	6	(\$11,123)	(\$73,684)	0	\$0	21	(\$73,684)
Year 7	6	(\$11,123)	(\$75,158)	0	\$0	21	(\$75,158)
Year 8	6	(\$11,123)	(\$76,661)	0	\$0	21	(\$76,661)
Year 9	6	(\$11,123)	(\$78,194)	0	\$0	21	(\$78,194)
Year 10	6	(\$11,123)	(\$79,758)	0	\$0	21	(\$79,758)

The DOC 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 DOC's current capacity (27,368) which is habitable, but department 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 DOC'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.

Oversight has no information to the contrary. Therefore, Oversight will present the fiscal impact of this proposal as provided by DOC.

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, Department of Public Safety - Missouri Highway Patrol, Office of the State Courts Administrator, Office of the Secretary of State and Office of the State Public Defender** 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 notes provisions of §436.590 provide that violation of the provisions of this proposal shall be subject to penalties, remedies and procedures provided in §§407.010 to 407.130. For simplicity, Oversight is not presenting potential civil penalties that could be charged for violations of this proposal.

<u>FISCAL IMPACT – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
GENERAL REVENUE			
<u>Cost</u> – DOC (§§436.575, 436.580, 436.585, and 436.590) Increase in incarceration costs p.3-5	(\$27,808 to Unknown)	(\$68,076 to Unknown)	(\$69,434 to Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$27,808 to Unknown)</u>	<u>(\$68,076 to Unknown)</u>	<u>(\$69,434 to Unknown)</u>

<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 DESCRIPTION

This act provides that no foreign principal or an agent of a foreign principal, as defined in the act, shall engage in litigation funding in this state. Additionally, no foreign principal or agent shall invest in, finance, fund, or loan money to a Missouri litigation funder, as defined in the act. A person engaged in litigation funding may not become affiliated with or maintain an affiliation with a foreign principal or an agent thereof. Additionally, such person may not allow a foreign principal or agent to invest in, maintain an ownership interest in, or exercise any control over a litigation funding agreement or litigation funded through such an agreement. Any person who willfully and knowingly violates these provisions shall be guilty of a class E felony.

This act additionally provides that litigation funder shall have a fiduciary duty to a party in a civil action if it has provided litigation funding for that civil action and may not engage in any act, practice, or course of business that is inconsistent with such fiduciary duty. A litigation

funder shall be jointly liable for any award or order imposing costs or monetary sanctions against a funded party or the attorney thereof arising from or relating to the funded civil action.

Furthermore, a violation of this act shall be deemed an unlawful merchandising practice and subject to the penalties, remedies, and procedures under the Missouri Merchandising Practices Act. The Attorney General may institute a legal action to prohibit a person who violates this act from providing litigation funding in Missouri. A litigation funding agreement entered into in violation of this act shall be void and unenforceable.

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

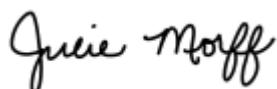
Department of Corrections

Department of Public Safety - Missouri Highway Patrol

Office of the State Courts Administrator

Office of the Secretary of State

Office of the State Public Defender



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