

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1228-02  
Bill No.: SB 439  
Subject: Crimes and Punishment; Criminal Procedure; Department of Corrections;  
 Federal-State Relations; State Attorney General  
Type: Original  
Date: February 20, 2001

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue Fund	(\$21,625 to \$121,625)	(\$21,322 to \$121,322)	(\$21,886 to \$121,886)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$21,625 to \$121,625)</b>	<b>(\$21,322 to \$121,322)</b>	<b>(\$21,886 to \$121,886)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 5 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Public Safety - Capitol Police, - Division of Fire Safety, - State Highway Patrol, - State Water Patrol, Jefferson City Police Department, and the Springfield Police Department** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** would not expect a significant impact on the budget of the judiciary.

Officials from the **Office of State Public Defender (SPD)** assume existing staff could provide representation for those Armed Criminal Action (ACA) cases arising where indigent persons were facing longer sentencing. The SPD also assumes existing staff could handle the increased ACA charge along with possession charges. However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused in the additional cases.

Officials from the **Office of Prosecution Services** assume the proposed legislation would have an unknown impact on the caseload of local prosecuting attorneys.

Officials from the **Office of Attorney General (AGO)** assume the proposal would require the AGO to request ½ FTE Paralegal (\$22,500) to keep track of prosecutions of both State and Federal weapons prosecutions arising from Missouri weapons offenses, plus the related expense and equipment for the FTE.

Officials from the **Department of Corrections (DOC)** state that Armed Criminal Action (ACA) (§571.015) is an unclassified felony that has no maximum sentence. It is often added to a more serious offense. The DOC assumes there are two components of the proposed ACA revision that will affect the population of the DOC:

1. First offenders will serve 5 years instead of 3 years. In FY 2000, there were 336 new admissions with a conviction for ACA. Of those, 126 had a sentence of 3 years for ACA and only 22 had a maximum sentence of 3 years. 22 offenders will stay an extra 2 years.

In addition, some offenders who have longer sentences but may, under current legislation, expect to be paroled after serving 3 years will have to serve 5 years before parole. In recent years, offenders with class A and B felonies have served approximately 50% of their sentence before parole. If the minimum prison time increased to 5 years, then anyone with a sentence under 10 years would serve longer. In FY 2000, there were 18 offenders with 5-year sentences who would now spend an additional 2 years incarcerated; 16 offenders with 7-year sentences who would spend an additional 1.5 years; and 2

ASSUMPTION (continued)

offenders with 8-year sentences who would spend 1 additional year. The result of this first component is that DOC population will increase by 58 in the first year of impact and by 102 in the second year of impact.

2. Offenders convicted of a second offense of ACA will serve 7 years instead of 5 years. In FY 2000, there were 29 offenders with a sentence of 5 years for armed criminal action, but only 4 had a maximum sentence of 5 years. 4 offenders will serve an additional 2 years. In addition, 2 offenders with 10-year sentences will serve an extra 2 years. The result of this component is that DOC population will increase by 6 in the first year of impact and by 12 in the second year of impact.

The total impact of the change to ACA will be 64 additional inmates in the first year of impact (FY 2005) and 114 in the second year of impact (FY 2006), with the population remaining static in subsequent years. The effect will occur three years after passage of this legislation. Based on a snapshot of the midyear average population and assuming the population will increase incrementally over the fiscal year, the estimated fiscal impact to DOC in FY 2005 is \$468,140. The estimated total ten-year fiscal impact to DOC is \$11,202,738.

The felony of Unlawful Use of Weapons is enhanced with adding carrying a firearm while possessing a controlled substance (§571.030). The DOC assumes this is new language and the fiscal impact for the DOC is unknown. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY99 average of \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (FY99 average of \$2.47 per inmate, per day).

The DOC cannot assess the fiscal impact of sentencing offenders in Federal court (§571.099) because the sentencing is dependent upon the Federal sentencing guidelines which are unique to each convicted offender. In general, offenders with convictions for armed criminal action also have longer concurrent sentences.

The need for additional capital improvements is not anticipated at this time. It must be noted that the cumulative effect of various new legislation, if adopted, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

**Oversight** assumes the conviction and incarceration of only one person of the Unlawful Use of Weapons, for carrying a firearm while possessing a controlled substance, would create a minimal fiscal impact of less than \$100,000 annually.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b>GENERAL REVENUE FUND</b>			
<u>Costs - Office of Attorney General</u>			
Salaries	(\$9,375)	(\$11,531)	(\$11,820)
Fringe Benefits	(\$3,125)	(\$3,843)	(\$3,939)
Equipment and Expense	<u>(\$9,125)</u>	<u>(\$5,948)</u>	<u>(\$6,127)</u>
Total - Office of Attorney General	(\$21,625)	(\$21,322)	(\$21,886)
<u>Costs - Department of Corrections</u>			
Incarceration/Probation costs	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(\$21,625 to <u>\$121,625</u>)</b>	<b>(\$21,322 to <u>\$121,322</u>)</b>	<b>(\$21,886 to <u>\$121,886</u>)</b>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b>POLITICAL SUBDIVISIONS</b>			
Costs to Prosecutors	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation makes several changes to provisions concerning firearms. The proposal:

- (1) Increases the penalty for the commission of a crime with the aid of a dangerous instrument or deadly weapon from 3 to 5 years imprisonment. The proposal also increases the penalty for a second offense of armed criminal action from 5 to 7 years imprisonment (Section 571.015, RSMo);
- (2) Updates language by removing provisions that pertain to sections that have been repealed (Section 571.015);
- (3) Expands the crime of unlawful use of weapons to include persons who carry firearms or other deadly weapons while in possession of a controlled substance (Section 571.030); and

DESCRIPTION (continued)

(4) Creates "Project Exile," a program that requires the state to review certain weapons offense cases for the possibility of federal prosecution. The proposal also requires that the Attorney General be notified of and keep a record of investigations and prosecutions pursuant to the program (Section 571.099).

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

Office of State Courts Administrator  
Department of Corrections  
Office of Prosecution Services  
Office of State Public Defender  
Department of Public Safety  
- Capitol Police  
- Division of Fire Safety  
- State Highway Patrol  
- State Water Patrol  
Office of Attorney General  
Jefferson City Police Department  
Springfield Police Department

**NOT RESPONDING: Jackson County Prosecuting Attorney, Cole County Prosecuting Attorney, Boone County Prosecuting Attorney, St. Louis County Prosecuting Attorney, St. Louis Police Department, Kansas City Police Department**



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Director

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