

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5212-03
Bill No.: HCS for HB 1995
Subject: Courts; Probation and Parole; Children and Minors; Crimes and Punishment
Type: Original
Date: February 12, 2016

Bill Summary: This proposal modifies provisions relating to first degree murder.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
General Revenue	(Less than \$539,267)	(Less than \$627,535)	(Less than \$627,371)	\$333,467
Total Estimated Net Effect on General Revenue	(Less than \$539,267)	(Less than \$627,535)	(Less than \$627,371)	\$333,467

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
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 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
General Revenue	0 FTE	0 FTE	0 FTE	0 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	0 FTE	0 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2026)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints, Oversight originally prepared a fiscal note for this bill without all of the agency responses. Oversight has since obtained the agency responses and upon review of those responses, believes the original fiscal note should be updated. Therefore, this fiscal note updates the original by providing agency responses.

\$217.736

In response to a previous version, officials at the **Department of Corrections (DOC)** assumed this proposal creates a youth offender parole hearing for the review of offenders with a cumulative sentence of forty years or more. In the review, the parole board will consider and give additional weight to factors that would suggest that offenders have changed and matured. The parole board may consider releasing suitable young offenders after serving thirty years. The legislation does not change or override any statutory restrictions and offenders serving minimum prison terms or no parole terms will be required to serve those terms before release.

Offenders under 18 at time of the offense serving a sentence of 40 years or more Parole eligible

40 years +	38
Life sentence	113
Total	151

Served at least 30 years	
In 2016	10
With release date	16
Ave. presumptive stay (years)	26
Average stay of those released	25

There are 151 parole-eligible offenders serving a sentence of forty years or more who were under 18 at the commission of the offense and 10 have served at least 30 years. The reason for the long incarceration is that ten offenders are serving long and consecutive sentences. For most offenders serving parole eligible life sentences, including dangerous felons, the average time served is 25 years and the average time served of the 16 offenders with a release date is 26 years. The number of the eligible offenders who will meet the criteria for a release is not known but the bill may result on one or two offenders released after 30 years and earlier than they would have been released.

ASSUMPTION (continued)

§§558.046, 558.047

In response to a previous version, officials at the **Department of Corrections (DOC)** assumed for offenders sentenced to life without parole eligibility and who were less than 18 at the commission of the offense the bill creates the right to petition the sentencing court to review the sentence under the revised sentencing for Murder 1st degree. The proposed statute 565.033 RSMo will mandate a prison term from 25 to 40 years or life with parole. The bill also adds Murder 1st degree to the list of dangerous felonies in 566.061 RSMo and offenders re-sentenced will be required to serve 85% before parole eligibility. Because a life sentence is considered to be 30 years in the computation of the minimum prison term (558.019 RSMo) the expected time served will be 26 years.

Offenders under 18 at time of the offense serving a sentence of life with no parole

	Incarcerated	Life	25 years	40 years
2016	91	16	21	0
2026	101	73	79	26

The number of offenders who were under 18 at the commission of the offense will require a review of the court documents because the offense date is not always included in the DOC sentence records. Based upon the available sentencing information the DOC estimates that 91 offenders sentenced to Murder 1st degree with no parole were under 18 at the time of the offense.

If the offenders are re-sentenced to a life sentence and are eligible to be released after serving 85% of 30 thirty years there will be 16 offenders who could be paroled in FY2017. The number will increase and over the ten years of the budget horizon it is expected that 73 offenders will be eligible to be released. The parole board normally releases after the minimum prison term has been served.

Reduction in prison population from paroling of young offenders sentenced to Murder 1st Degree without parole
 Increase in parole population

	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27
Prison	16	9	4	6	8	9	8	5	3	3	2
Cumulative	16	25	29	35	43	52	60	66	68	71	73
Parole	16	25	29	35	43	52	60	66	68	71	73

ASSUMPTION (continued)

§§556.061, 565.020, 565.030, 565.032, 565.033, 565.040

In response to a previous version, officials at the **Office of the State Public Defender (MSPD)** assumed there are 84 juveniles currently serving life without parole. This legislation appears to give them a new hearing if their case isn't final for purposes of appeal. Also going forward there are approximately 10 juvenile murder cases per year. These cases will be resolved over a 3 year time period. The 10 cases will be on-going. The public defender system is not in a position to provide additional attorney time. Each case will cost \$5,000 to contract out. Each case will require expert witness testimony. The experts will cost approximately \$15,000 per case.

In summary, the MSPD assumes the following:

28 One Time Contracts at \$5,000 each
28 One Time Litigations at \$15,000 each
10 On Going Litigations at \$15,000 each

In summary, the MSPD assumes the following costs for this proposal:

FY 2017	\$591,667 for 10 months
FY 2018	\$727,750 adjusted for 2.5% inflation
FY 2019	\$745,945 adjusted for 2.5% inflation

Bill as a whole

In response to a previous version, officials at the **Office of the Attorney General (AGO)** assumed that any potential 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 cases.

In response to a previous version, officials at the **Department of Corrections** assumed the bill revises the sentencing for Murder 1st degree as described in section 2 but as young offenders sentenced under the proposed parole eligibility rules will serve at least 21 years there will be no impact from new admissions in the ten years of the budget horizon. The bill creates the armed criminal docket in Jackson County to handle weapon related offenses. The intention of handling all weapon related offenses in one court will be to increase the professionalism of the court process and the standardize sentencing. The new docket may increase the workload for the Division of Probation and Parole if more Sentencing Assessment Reports are requested by the courts. As no specific sentencing changes are proposed there is no expected impact from establishing an armed criminal docket.

ASSUMPTION (continued)

In response to a previous version, officials at the **Office of Prosecution Services** assumed no fiscal impact from this proposal.

Officials at the **Office of the State Courts Administrator**, the **Department of Mental Health** and the **Department of Social Services** each assume no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State</u> <u>Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2026)
GENERAL REVENUE				
<u>Costs - Office of the State Public</u> <u>Defender</u>				
One Time Contract Costs	(\$116,667)	(\$143,500)	(\$147,088)	\$0
One Time Litigation Costs	(\$350,000)	(\$430,500)	(\$441,263)	\$0
On Going Litigation Costs	<u>(\$125,000)</u>	<u>(\$153,750)</u>	<u>(\$157,594)</u>	<u>\$0</u>
Total Costs - MSPD	<u>(\$591,667)</u>	<u>(\$727,750)</u>	<u>(\$745,945)</u>	<u>\$0</u>
FTE Change - MSPD	0 FTE	0 FTE	0 FTE	0 FTE
<u>Savings - DOC - cost avoidance</u> resulting from a reduction in prison admissions (\$558.046, 558.047)	<u>\$52,400</u>	<u>\$100,215</u>	<u>\$118,574</u>	<u>\$333,467</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Less than <u>\$539,267</u>)	(Less than <u>\$627,535</u>)	(Less than <u>\$627,371</u>)	<u>\$333,467</u>
<u>FISCAL IMPACT - Local</u> <u>Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2026)
	<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 DESCRIPTION

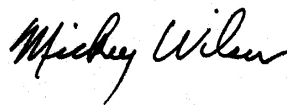
This bill repeals the mandatory life sentence and allows an individual who was under 18 years of age at the time of the commission of his or her offense and was sentenced to a cumulative total of more than 40 years the right to a youth offender parole hearing to determine parole eligibility, as specified in the bill, on the 30th year of their incarceration. The bill provides that anyone who was sentenced to life without parole and was under the age of 18 at the time he or she committed the offense will have an opportunity to petition the court for a review of his or her sentence, as specified in these provisions. The bill specifies that an individual found guilty of murder in the first degree who was under the age of 18 may only be sentenced to 25 to 40 years or life imprisonment with parole and specifies the factors the court must consider when assessing the punishment.

HCA #1: This amendment removes the provision pertaining to the Armed Offender Docket Pilot Project in Jackson County Circuit Court.

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 the Attorney General
Department of Corrections
Office of the State Courts Administrator
Office of Prosecution Services
Department of Mental Health
Department of Social Services
Office of the State Public Defender



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February 12, 2016
NM:LR:OD

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February 12, 2016