

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0919-01  
Bill No.: HB 273  
Subject: Crimes and Punishment; Firearms; Law Enforcement Officers and Agencies  
Type: Original  
Date: January 25, 2017

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Bill Summary: This proposal increases penalties for offenses against law enforcement officers and emergency responders who are the victims of assault and manslaughter.

**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
General Revenue	(\$535,079)	(\$1,309,874)	(\$2,076,225)	(\$3,974,725)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$535,079)</b>	<b>(\$1,309,874)</b>	<b>(\$2,076,225)</b>	<b>(\$3,974,725)</b>

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

☒ 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 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Corrections (DOC)** state this legislation is similar to SB 46 (2017) but adds one additional section (565.056) and makes certain wording changes. The differences are highlighted below.

Sections 217.703, 556.061, 565.002, 565.023, 565.024, 565.027, 565.050, 565.052 and 565.054 differ from those found in SB 46 in that section 565.002 now contains definitions of emergency personnel and law enforcement officer which are separate from the definition of special victim. These two classes have been removed from special victims and in each location where special victim had previously been used, now all three terms are used. These changes do not alter the impact found in SB 46 for the corresponding sections.

DOC states this bill proposes to enhance the penalties for assault and manslaughter if a law enforcement officer or emergency responders are the victim. Law enforcement and emergency responders are considered 'special victims' in the revised criminal code that became effective on January 1 2017. This bill separates law enforcement and emergency responders from special victims for enhanced penalty purposes. Special victims receive enhanced penalties in assault cases. Law enforcement and emergency responders will now receive higher enhanced penalties for crimes committed against them in the performance of their duties.

Voluntary manslaughter, involuntary manslaughter 1st and 2nd will now have enhanced penalties if the victim is a law enforcement officer or emergency responder. Voluntary manslaughter will now be a class A felony, involuntary manslaughter 1st will be a class B felony and involuntary manslaughter 2nd will be a class D felony when the victims are law enforcement or emergency responders.

Assault 1st currently applies to law enforcement officers and emergency responders. The enhanced penalty is a class A felony. Assault 2nd and 3rd offenders are serving class D and E felonies for 'special victims' offenses. Assault 2nd against law enforcement or emergency responders will now serve a class A felony, as a dangerous felony (must serve 85% of time). Assault 3rd cases will now serve a class C felony.

The estimate of the impact of the enhanced sentence is based upon admissions and releases in FY16 and the sentencing averages are shown in the table below. There is no current offense for voluntary and involuntary manslaughter when the victim is a law enforcement officer or emergency responder and the estimate is based on the percent of assault offenses when the victim is a law enforcement officer or emergency responder (7%).

ASSUMPTION (continued)

A difficulty in making the required estimates is that some of the offenses being revised have just been enacted and the DOC has had to make estimates using pre-revised criminal code data. The impact of the revised criminal code for these offenses has not been factored into the impact assessment.

The estimates include the cost of incarcerating parole returns (estimated at 42% of the time after first release to the discharge of the sentence). This is an amount that the DOC did not include previous years.

The offenses that have an impact on the DOC prison population include Voluntary Manslaughter, Involuntary Manslaughter 1st degree, Assault 2nd degree and Assault 3rd degree. The number of offenders being admitted for Involuntary Manslaughter 2nd degree is too small to estimate the number of offenders when the victim is a law enforcement officers or an emergency responder.

Impact of increasing the sentencing for assaultive offenses against law enforcement officers and emergency personnel:

				Length of stay (yrs) to		
	Admissions	Avg. Sentence (yrs)		first release		
	FY 16	Before	After	Before	After	Increase
	(1)	(2)	(3)	(4)	(5)	(6)
Voluntary manslaughter	1.1	10.4	14.8	6.5	9.3	2.7
Invol. manslaughter 1st	2.3	7.0	9.0	4.2	5.9	1.7
Assault 2nd (LEO & EP)	69.0	8.0	16.0	6.8	13.6	6.8
Assault 3rd (LEO & EP)	20.0	3.5	8.0	2.1	5.2	3.1

(continued)

			Total Impact			Impact
Parole (yrs)			First	Parole		After
Before	After	Increase	Release	Returns	Total	10 years
(7)	(8)	(9)	(1)x(6)	(1)x(9)x42%		
3.9	5.6	1.6	3.0	0.5	3.5	3.5
2.8	3.2	0.4	3.8	1.0	4.8	4.8
1.2	2.4	1.2	469.2	34.8	504.0	207.0
1.4	2.8	1.4	62.0	8.4	70.4	70.4
Total Prison			538.0	44.6	582.7	285.7
Field Supervision (parole)			(538.0)	(44.6)	(582.7)	(285.7)

ASSUMPTION (continued)

The total estimate of the legislative changes is an increase in the prison population of 582.7 but not all the changes will occur in the ten years of the budget forecast. After ten years the increase in the population is estimated to be 285.7. The changes to the sentencing of Assault 2nd from 8 years to 16 years and the offenses will be a dangerous felony means that the expected time served is 13.6 years. The impact of the changes is calculated from the time the offenders would have been released under current sentencing. The expected changes over the ten years of the budget horizon are shown below.

Impact	FY '18	FY'19	FY'20	FY'26	FY'27
Prison Population	18.0	20.0	41.8	215.8	285.7
Field Population	(18.0)	(20.0)	(41.8)	(215.8)	(285.7)

DOC notes that section 565.056 is not found in SB 46; this section increases the penalty for those who commit assault in the fourth degree against law enforcement officers or emergency personnel. Fourth degree assault does not appear in the law prior to January 1, 2017; instead third degree assault includes these offenses that will be considered fourth degree assault after the first of the year.

As noted above, 7% of assaults are against law enforcement or emergency personnel. According to OSCA, there were a total of 1,913 convictions during FY 2016 for assault in the third degree that would be covered under the new 565.056. If 7% of these are against law enforcement or emergency personnel, this would represent a total of 134 new class E felony convictions, beginning in FY 2018. Class E violent felonies are estimated to have 2 people sentenced to prison and 1 person to probation for each three total sentences; those sentenced to prison spend a total of 3.0 years in prison and 1.0 years on parole, while probationers serve a total of 4.0 years. Thus, the total impact may be found in the table below.

ASSUMPTION (continued)

	FY '18	FY'19	FY'20		FY'26	FY'27
<b>Admissions &amp; Probation</b>						
Admissions	89.0	89.0	89.0		89.0	89.0
Releases to Parole					89.0	89.0
Probation	45.0	45.0	45.0		45.0	45.0
<b>Prison and Field Population (admissions x length of stay)</b>						
Admissions	89.0	178.0	267.0		267.0	267.0
Parole					89.0	89.0
Probation	45.0	90.0	135.0		180.0	180.0
<b>Impact</b>						
Prison population	89.0	178.0	267.0		267.0	267.0
Field Population	45.0	90.0	135.0		269.0	269.0
<b>TOTAL</b>	134.0	268.0	402.0		536.0	536.0

Combining this impact with that for the previous parts from SB 46 yields the total impact found in the table below.

Impact	FY '18	FY'19	FY'20		FY'26	FY'27
Prison Population	89.0	178.0	285.0		482.8	552.7
Field Population	45.0	90.0	117.0		53.2	(16.7)
<b>TOTAL</b>	134.0	268.0	402.0		536.0	536.0

ASSUMPTION (continued)

Therefore, the impact to DOC in FY 2018 would be 89 people in prison and 45 in the field , and the impact would increase from there.

	# to prison	Cost per year	Total Costs for <b>prison</b>	# to probation	Cost per year	Total cost for <b>probation and parole</b>	Grand Total - Prison and Probation (includes and 2% inflation
Year 1	89	(\$6,085)	(\$541,565)	45	(\$2,234)	(\$100,530)	(\$535,079)
Year 2	178	(\$6,085)	(\$1,083,130)	90	(\$2,234)	(\$201,060)	(\$1,309,874)
Year 3	285	(\$6,085)	(\$1,734,225)	117	(\$2,234)	(\$261,378)	(\$2,076,225)
Year 4	287	(\$6,085)	(\$1,746,395)	249	(\$2,234)	(\$556,266)	(\$2,443,602)
Year 5	309	(\$6,085)	(\$1,879,048)	227	(\$2,234)	(\$507,565)	(\$2,583,346)
Year 6	336	(\$6,085)	(\$2,045,169)	200	(\$2,234)	(\$446,577)	(\$2,751,088)
Year 7	357	(\$6,085)	(\$2,169,303)	180	(\$2,234)	(\$401,003)	(\$2,894,581)
Year 8	412	(\$6,085)	(\$2,508,846)	124	(\$2,234)	(\$276,346)	(\$3,199,309)
Year 9	483	(\$6,085)	(\$2,937,838)	53	(\$2,234)	(\$118,849)	(\$3,581,396)
Year 10	553	(\$6,085)	(\$3,363,180)	(17)	(\$2,234)	\$37,308	(\$3,974,725)

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with the enhanced penalties for assault on a law enforcement officer or an emergency responder which under this proposed legislation would become a new class A felony.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Public Safety (Missouri Highway Patrol, Capitol Police, and Fire Safety)**, **Office of the State Courts Administrator**, and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
<b>GENERAL REVENUE</b>				
<u>Costs - DOC -</u> Increased incarceration and supervision (parole) expense	<u>(\$535,079)</u>	<u>(\$1,309,874)</u>	<u>(\$2,076,225)</u>	<u>(\$3,974,725)</u>
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b><u>(\$535,079)</u></b>	<b><u>(\$1,309,874)</u></b>	<b><u>(\$2,076,225)</u></b>	<b><u>(\$3,974,725)</u></b>

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

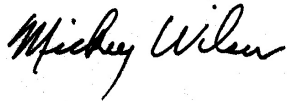
This bill increases penalties for assault, voluntary manslaughter, and involuntary manslaughter when the victim is a law enforcement officer or an emergency responder.

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

Department of Corrections  
Office of the State Courts Administrator  
Department of Public Safety  
Office of Prosecution Services  
Office of the State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
January 25, 2017

Ross Strobe  
Assistant Director  
January 25, 2017