

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1968-01  
Bill No.: Perfected HCB 1  
Subject: Courts; Civil Procedure; Guardians; Crimes and Punishment; Uniform Laws;  
Property, Real and Personal  
Type: Original  
Date: April 26, 2017

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Bill Summary: This proposal modifies provisions relating to judicial proceedings.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
General Revenue	(Unknown, more than \$1,646,267)	(Unknown, more than \$3,590,450)	(Unknown, more than \$5,506,121)	(Unknown, more than \$11,714,979)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Unknown, more than \$1,646,267)</b>	<b>(Unknown, more than \$3,590,450)</b>	<b>(Unknown, more than \$5,506,121)</b>	<b>(Unknown, more than \$11,714,979)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
Highway Fund	(\$60,000)	(\$5,125)	(\$5,253)	(\$6,244)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$60,000)</b>	<b>(\$5,125)</b>	<b>(\$5,253)</b>	<b>(\$6,244)</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 24 pages.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2018	FY 2019	FY 2020	Fully Implemented (FY 2027)
General Revenue	2 FTE	2 FTE	2 FTE	2 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>2 FTE</b>	<b>2 FTE</b>	<b>2 FTE</b>	<b>2 FTE</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>Less than \$847,680</b>	<b>Less than \$847,680</b>	<b>Less than \$847,680</b>	<b>Less than \$847,680</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §531.070 and §595.219 Official Misconduct

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation filed this year, SB 176, officials at the **Office of the Attorney General** assumed any potential costs arising from this proposal can be absorbed with existing resources.

In response to similar legislation filed this year, SB 176, officials at the **Office of the Secretary of State**, the **Department of Public Safety's Missouri Highway Patrol** and the **Department of Corrections** each assumed no fiscal impact to their respective agencies from this proposal.

In response to similar legislation filed this year, SB 176, officials at the **City of Columbia** assumed no fiscal impact from this proposal.

In response to similar legislation filed this year, SB 176, officials at the **Boone County Sheriff's Department**, the **Springfield Police Department**, the **St. Louis County Police Department** and the **St. Louis County Justice Services** each assumed no fiscal impact to their respective entities from this proposal.

#### §§210.845, 452.370, 452.747 and 454.500 Responsive Pleadings

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation this year, HCS for HB 285, officials at the **Office of the Attorney General** assumed no fiscal impact from this proposal.

#### §302.441 Ignition Interlock Device

Officials at the **Department of Revenue (DOR)** assume this language is required to comply with federal requirements for "repeat" intoxication-related offenders under 23 U.S.C. § 164. This applies to a circumstance where state law allows a court-ordered waiver of ignition interlock device (IID) installation and use for motor vehicles which are solely owned and controlled by the offender's employer.

ASSUMPTION (continued)

Federal law requires either IID installation for repeat intoxication-related offenders (two offenses within a five-year period) for limited driving privileges or license reinstatement OR a 'hard walk' or mandatory license suspension period. If an IID waiver for an employer-owned vehicle is allowed by state law, it must comply with the federal requirements and apply only in situations where the repeat offender has no ownership interest in or control over the entity that owns the vehicle.

This language was not contained in the version of §302.440 passed in the 2016 legislative session, and is required. Failure to include the language will place Missouri out of compliance with federal law for repeat intoxication-related offenders and will result in the possible loss or withholding of federal highway aid funds.

Language was also added allowing courts to order continuous alcohol monitoring as an additional or alternative requirement in lieu of the ignition interlock when granting the work exemption. If this language is broadly applied, it could be construed as giving the court the authority to order continuous alcohol monitoring even if the work exemption is not granted, or to order the continuous alcohol monitoring in lieu of the ignition interlock requirements for non-work vehicles.

The DOR is unclear on how this new language would be interpreted by the courts. There could be a potential loss in federal funds related to DWI programs as well as general revenue funds for the state.

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation filed this year, HB 875, officials at the **Department of Public Safety's Missouri Highway Patrol** assumed no fiscal impact from this proposal.

§400.1-101 - §400.7-704 Uniform Commercial Code

In response to similar legislation filed this year, HB 34, Officials from the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Revenue** and the **Department of Economic Development** each assume the current proposal would not fiscally impact their respective agencies.

ASSUMPTION (continued)

§400.9-501 and §570.095 Offense of Filing False Documents

In response to similar legislation filed this year, HB 303, officials at the **Department of Corrections (DOC)** assumed this proposal removes a Class E felony for filing false documents in RSMo 400.9-501 and replaces it with a Class D/Class C felony in the newly created RSMo 570.095.

The language in the newly created section is more specific than that in the current statute, and allows for a Class D felony for first time offenders, with an enhancement to class C for repeat offenders or offenses against certain government officials, police, fire fighters, etc. While this change makes the legislation more clear, it does not appear that any new actions would be considered a crime under these changes.

The current legislation found in RSMo 400.9-501 was modified in 2014 to introduce the criminal penalty. No charge code was ever created for this statute, and the legislation is still quite new, meaning that good data for the current impact is unknown. Thus, this will be treated as a new offense; further, as this offense is expected to be quite rare, only the D felony version will be considered. The standard response for a new non-violent D felony is found below. Under this situation, 3 individuals will be sentenced to prison and 5 to probation in each fiscal year. For incarcerated individuals, the average sentence is 4.8 years, with a total of 2.9 years in prison and 1.9 years on parole; the probationers serve a 3.0 year term.

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
<b>New</b>										
Admissions	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Probations	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
<b>Cumulative Populations</b>										
Prison	3.0	6.0	8.7	8.7	8.7	8.7	8.7	8.7	8.7	8.7
Parole			0.3	3.3	5.7	5.7	5.7	5.7	5.7	5.7
Probation	5.0	10.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0
<b>Impact</b>										
Prison Population	3.0	6.0	8.7	8.7	8.7	8.7	8.7	8.7	8.7	8.7
Field Population	5.0	10.0	15.3	18.3	20.7	20.7	20.7	20.7	20.7	20.7
<b>Population Change</b>	<b>8.0</b>	<b>16.0</b>	<b>24.0</b>	<b>27.0</b>	<b>29.4</b>	<b>29.4</b>	<b>29.4</b>	<b>29.4</b>	<b>29.4</b>	<b>29.4</b>

Thus, this legislation is estimated to increase the prison population by 8.7 individuals by FY2020, and increase the field population to 20.7 by FY2022.

ASSUMPTION (continued)

The FY 2016 average cost of supervision is \$6.12 per offender per day or an annual cost of \$2,234 per offender. The DOC cost of incarceration is \$16.67 per day or an annual cost of \$6,085 per offender.

The DOC would assume this legislation will result in long term costs as indicated in the chart below.

	# to Prison	Cost per year	Total Cost Prison	# to Probation & Parole	Cost per year	Total Cost P&P	Grand Total P&P
Year 1	3	(\$6,085)	(\$18,255)	5	(\$2,234)	(\$11,170)	(\$24,521)
Year 2*	6	(\$6,085)	(\$36,510)	10	(\$2,234)	(\$22,340)	(\$60,027)
Year 3*	8.7	(\$6,085)	(\$52,940)	15.3	(\$2,234)	(\$34,180)	(\$90,639)
Year 4*	8.7	(\$6,085)	(\$52,940)	18.3	(\$2,234)	(\$40,882)	(\$99,564)
Year 5*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$107,359)
Year 6*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$109,506)
Year 7*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$111,697)
Year 8*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$113,930)
Year 9*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$116,209)
Year 10*	8.7	(\$6,085)	(\$52,940)	20.7	(\$2,234)	(\$46,244)	(\$118,533)

\* Includes 2% inflation

**Oversight** assumes that the DOC will incur some costs related to this proposal; therefore, Oversight will reflect a cost of "Less than \$100,000" in FY 2018, 2019 and 2020. Oversight notes that costs could exceed \$100,000 in year ten, or FY 2027.

In response to similar legislation filed this year, HB 303, officials from the **Attorney General's Office** assumed that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of intentionally filing a fraudulent financing statement or any financing statement with the Secretary of State with the intent to harass or defraud any other person. This offense would be a new Class D Felony, unless the offense meets other circumstances, then it becomes a Class C 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.

ASSUMPTION (continued)

**Oversight** assumes the State Public Defender's Office can absorb the additional caseload that may result from this proposal.

Officials from the **Office of the Secretary of State (SOS)** file more than 155,000 UCC filings per year, so additional staff would be needed to conduct the additional review this proposal requires. It is anticipated that two new FTEs would need to be created with salaries at \$29,000 per year. Missouri law requires the SOS to file UCC filing within three business days of receipt; therefore, these filings would have to be prioritized for this additional review to comply with these guidelines. RSMo § 400.9-519(h).

The estimate for one-time IT costs (\$80,000) is based on previous experiences contracting with vendors to make changes to existing software. The estimate that two additional full-time employees would be needed is based upon the estimate of how many UCC filings would be reviewed per year (155,000).

In response to similar legislation filed this year, HB 303, officials at **St. Charles County** assumed there would be a minimal fiscal impact for maintaining a spreadsheet of suspect documents and emailing them to law enforcement.

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation filed this year, HB 303, officials from the **Department of Public Safety - Missouri Highway Patrol** assumed no fiscal impact from this proposal.

In response to similar legislation filed this year, HB 303, officials from the **Boone County Sheriff's Department** and **Cole County Sheriff** each assumed the proposal would have no fiscal impact on their respective organizations.

§456.4-414 and §456.4-420 Trust Instruments

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation filed this year, HB 427, officials at the **Office of the State Public Defender** assumed no fiscal impact from this proposal.

ASSUMPTION (continued)

§475.084 Visitation Rights

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

§478.463 Division 12 of the 16<sup>th</sup> Judicial Circuit

Officials at the **Office of the State Courts Administrator** assume the proposed legislation modifies provisions relating to judicial proceedings. There may be some impact to the state as well as the county but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

In response to similar legislation from 2016, Perfected HB 1388, officials at the **City of Independence** assumed no fiscal impact from this proposal.

Officials at Jackson County and Clay County did not respond to **Oversight's** request for fiscal impact.

§479.020 Municipal Courts

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation from this year, HCS for HB 380, officials at the **Office of the Attorney General** and the **Office of the State Public Defender** each assumed no fiscal impact to their respective agencies from this proposal.

§488.2206 Court Surcharge

Officials at the **Office of the State Courts Administrator (OSCA)** assume the proposed legislation modifies provisions relating to judicial proceedings. The 6th Circuit (Platte County), 7th Circuit (Clay County), 19th Circuit (Cole County), 29th Circuit (Jasper County), 31st Circuit (Greene County), 38th Circuit (Christian County), and 46th Circuit (Taney County) qualify. Based on FY 2015 data, there were 40,890 filed civil cases and 43,878 filed criminal cases. OSCA anticipates the surcharge could be up to approximately \$847,680 ( $40,890 + 43,878 = 84,768$  (\$10) = \$847,680).

**Oversight** assumes OSCA's response includes Greene County. This proposal adds single non-charter county judicial circuits, however, Greene County's surcharge was authorized in Truly Agreed To and Finally Passed CCS for SS for SCS for HCS for HB 1231 from 2014 session.



ASSUMPTION (continued)

Oversight can not back into Greene County's number from OSCA's response, therefore, Oversight assumes the revenue collected from this surcharge on non-charter county judicial circuits will be less than \$847,680.

§488.2250 Court Reporter Fees

Officials at the **Office of the State Public Defender (MSPD)** assume this proposal relates to fees paid to court reporters. The current law, §488.2250, sets the rate for appeal transcripts or proceedings in any circuit court. This would be \$3.50 per page, except for in forma pauperis appeal transcripts which are \$2.60 per page. The proposed change would set the rate only for appeal transcripts or no change in rate.

Court reporters would not be regulated in what they charge for transcripts of hearings, daily transcripts of trials, etc. The proposal would allow court reporters to charge whatever the market will bear except for appeal transcripts. Presumably, costs would go up to MSPD and other litigants. There would be a significant fiscal impact as MSPD frequently orders court transcripts for purposes other than appeal. For trial preparation, MSPD frequently orders transcripts of proceedings such as:

- preliminary hearings
- suppression hearings
- 491 hearings on admissibility of hearsay statements of alleged child sex victims
- trial transcripts when a first trial ended in a hung jury
- transcripts of a co-defendant's trial, etc

As the amount a court reporter will charge for these items will no longer be set by statute, and it is unknown what the court reporter will charge, it is impossible to place a firm fixed cost on this proposed legislation. Historically speaking, this proposal could cost MSPD more than \$100,000. The increase in costs of this proposal would limit the MSPD's ability to meet its other core responsibilities.

Officials at the **Office of the State Courts Administrator (OSCA)** assume the proposed legislation modifies provisions relating to judicial proceedings. There may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

In response to similar legislation filed this year, HB 597, officials at the **Office of the Attorney General** assume no fiscal impact from this proposal.

ASSUMPTION (continued)

**Oversight** notes FY 2013, Truly Agreed To and Finally Passed CCS for HCS for SB 100, was the last time the court fee rate was changed for transcripts from court reporters. Officials from OSCA stated the rate changed from \$2.00 per page to \$3.50 per page and \$2.60 for indigents. OSCA responded with a fiscal impact of less than \$100,000. Because this proposal does not set the rate in statute for hearings, daily transcripts of trial, etc., the fiscal impact could be significant for both state and local political subdivisions. Therefore, Oversight will reflect a negative fiscal impact that could exceed \$100,000 for MSPD and a negative unknown fiscal impact to local political subdivisions.

§513.430 and §513.440 Property

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

§514.040 Guardian ad litem fees

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation filed this year, HB 765, officials at the **Office of the State Public Defender** assumed no fiscal impact from this proposal.

§544.671, §565.050, §565.052, §565.054, §565.056, §575.150 & §650.520 Blue Alert & Penalties for Hurting First Responders

Officials from the **Department of Corrections (DOC)** state this version is similar to 0525-04, SCS for SB 46, and broadens the special victims to include firefighters and emergency medical service providers. This proposal has the same impact as 525-04 which is below, but it also has an unknown impact as well. We have no measurable data to predict the impact of adding firefighters and emergency medical service providers to the special victims' classification, but we would expect there to be an increase in the number of people charged under this bill. This unknown impact would be added to the impact for this proposal below.

FN 0525-04 Impact:

This version eliminates voluntary and involuntary manslaughter provisions pertaining to law enforcement officers. If a law enforcement officer is the victim in assault 1st, 2nd, 3rd, 4th and resisting arrest offenses, offenders found guilty cannot be eligible for probation or parole. Conditional release terms, as prescribed in RSMo 558.011, would apply. It is worth noting that this population prediction can be impacted by the courts with the latitude provided them in conditional release cases. The statute states that in cases of class D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or the court can impose a sentence of imprisonment for a term longer than one year and shall commit the person to the custody of the department of corrections, in which the terms of conditional release would apply.

ASSUMPTION (continued)

Assault 1st and 2nd are dangerous felonies in which the offenders would serve 100% of the sentence because they are excluded from the provisions of conditional release. Assault 4th is a class A misdemeanor with a term less than one year and, because of the incarceration requirements would not be supervised by the DOC.

The department uses new prison admissions in FY16 to estimate the number of offenders who will be impacted by the proposed sentencing changes and the time served by offenders released in FY16 to estimate the prison time served. While most prison time is served to first release many parolees are revoked and re-incarcerated. The department has estimated based upon an analysis of sentences discharged in FY16 that 42% of the time from first release to the discharge of the sentence is spent in prison. This time is added to the time to first release.

A difficulty the department has in estimating the impact of changes to the sentencing of assault offenses for the fiscal impact is that the criminal code revision that was enacted on January 1, 2017 included a major revision to the assault statutes by creating four degrees of assault. There has been no sentencing of offenders under these new statutes so the department is assuming an equivalency between the old offense of assault 1st degree of a law enforcement officer (LEO) and the new offense of assault 1st degree against a special victim and similarly for assault 2nd degree. The new offense of assault 3rd degree is approximated by the offenders the department received for misdemeanor probation.

For assault 1st (LEO), 5 offenders were admitted to serve a term sentence and 2 received probation in FY16. The term admissions serve 62% of an average 17 year sentence. As dangerous felons, the 5 term sentences would do an additional 38% and the two probation cases serve 100% of the sentence because all would be excluded from conditional release.

For assault 2nd (LEO), 69 offenders were admitted to serve a term sentence, 32 were 120 day admissions, and 96 received probation in FY16. The term sentence group could expect to serve 52% of an 8 year sentence in prison. As dangerous felons, they would be excluded from conditional release and have to serve 100% of the sentence in prison or an additional 3.9 years. The other 128 120 Day/probation cases would get term sentences and would serve the entire prison sentence.

The 20 new admissions for assault 3rd were probation cases in FY16. This group would now serve 67% of an average 3.5 year sentence or 2.3 years before release. And 42% of the releases can expect to become parole returns.

Finally, in FY16 there were 95 term sentences for resisting arrest, 34 received 120 Day and 248 received probation. The term sentence group could expect to serve 31% of an average 4.2 year sentence. These individuals will now serve 67% or 1.5 additional years in prison. The 282 120

ASSUMPTION (continued)

Day/probation cases would all serve 67% of the sentence. And 42% of the releases can expect to become parole returns.

In response to 0525-04, DOC stated the following table illustrates the sentence distribution and expected impact to DOC.

Impact of mandating no probation or parole for assault on a law enforcement officer and resisting arrest

Term Sentences (serve longer in prison)	Admissions FY16 (1)	Average Sentence (yrs) FY16		Length of stay (yrs) to first release (FY16)			Time remaining on sentence (yrs)			Total Impact			Impact after 10 years
		Before	After	Before	After	Increase	Before	After	Increase	First release (17.6)	Parole returns (17.9)*42%	Total	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(17.6)	(17.9)*42%		
Assault 1st (LEO)	5	17.0	17.0	14.5	17	2.6	2.6	-	-2.6	13	-5	7	-
Assault 2nd (LEO)	69	8.0	8.0	6.8	8	1.2	1.2	-	-1.2	83	-35	48	48
Resisting Arrest	95	4.2	4.2	1.3	2.8	1.5	2.9	1.4	-1.5	144	-60	83	83
120 day and Probation (now serve term sentence)													
Assault 1st (LEO)	2		17.0		17.0	17.0	-	-		34	-	34	20
Assault 2nd (LEO)	128		8.0		8.0	8.0	-	-		1,024	-	1,024	1,024
Assault 3rd (LEO)	20		3.5		2.3	2.3	-	1.2	1.2	47	10	57	57
Resisting Arrest	282		4.2		2.8	2.8	-	1.4	1.4	794	164	958	958
Total Prison	601									2,138	73	2,211	2,190
Field Supervision (Parole)												-1,694	-1,694

The total impact is expected to be an increase in the prison population of 2,211 but only 2,190 would occur within the 10 year budget horizon. There would be a reduction of 1,694 in the field population as more time is spent in prison. The increase in the prison population is so large because many offenders convicted of the assault offenses are currently sentenced to probation or a 120 day program under 559.115 RSMo.

The timing of the impact is calculated by adding the increase in the prison population of those offenders who would have been sentenced to a term sentence after the time they would have served. For the offenders who would not have been incarcerated under current legislation the impact occurs in the first year following the enactment of the bill. The calculations below show that the prison population will increase by 423 in the first year and will increase significantly in each year for eight years when the prison population will increase by 2,187.

## ASSUMPTION (continued)

### Assault of LEO 1st (Dangerous Felony) - serving a longer time served

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Admissions</b>										
Admissions	5	5	5	5	5	5	5	5	5	5
Releases to parole									-	-
<b>Prison and Field Population (admissions* increased length of stay)</b>										
Prison	-	-	-	-	-	-	-	-	-	-
<b>Impact</b>										
Total prison population	-	-	-	-	-	-	-	-	-	-
Field Population	-	-	-	-	-	-	-	-	-	-

### Assault of LEO 2nd (Dangerous Felony) - serving a longer time served

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Admissions</b>										
Admissions	69	69	69	69	69	69	69	69	69	69
Releases to parole										
<b>Prison and Field Population (admissions* increased length of stay)</b>										
Prison	-	-	-	-	-	-	-	48	48	48
Field Population	-	-	-	-	-	-	-	-48	-48	-48

### Resisting Arrest - serving a longer time served

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Admissions</b>										
Admissions	95	95	95	95	95	95	95	95	95	95
Releases to parole										
<b>Prison and Field Population (admissions* increased length of stay)</b>										
Prison	-	-	46	83	83	83	83	83	83	83
Field Population	-	-	-46	-83	-83	-83	-83	-83	-83	-83

### Assault of LEO 1st (Dangerous Felony) - offenders now serving a term sentence

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Admissions</b>										
Admissions	2	2	2	2	2	2	2	2	2	2
Releases to parole										
<b>Prison and Field Population (admissions* increased length of stay)</b>										
Prison	2	4	6	8	10	12	14	16	18	20
Field Population	-2	-4	-6	-8	-10	-12	-14	-16	-18	-20

### Assault of LEO 2nd (Dangerous Felony) - offenders now serving a term sentence

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Admissions</b>										
Admissions	128	128	128	128	128	128	128	128	128	128
Releases to parole										
<b>Prison and Field Population (admissions* increased length of stay)</b>										
Prison	128	256	384	512	640	768	896	1,024	1,024	1,024
Previous five year probation	128	256	384	512	640	640	640	640	640	640
Reduction in Field Population	-128	-256	-384	-512	-640	-640	-640	-640	-640	-640

### Assault of LEO 3rd (offenders now serving a term sentence)

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Admissions</b>										
Admissions	20	20	20	20	20	20	20	20	20	20
Releases to parole			17	20	20	20	20	20	20	20
<b>Prison and Field Population (admissions* increased length of stay)</b>										
Prison	20	40	43	57	57	57	57	57	57	57
Previous three year probation	20	40	60	60	60	60	60	60	60	60
Field Population	-20	-40	-43	-57	-57	-57	-57	-57	-57	-57

ASSUMPTION (continued)

**Resisting Arrest**

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Admissions</b>										
Admissions	282	282	282	282	282	282	282	282	282	282
Releases to parole				189	282	282	282	282	282	282
<b>Prison and Field Population (admissions * increased length of stay)</b>										
Prison	282	564	846	959	959	959	959	959	959	959
Previous three year probation	282	564	846	846	846	846	846	846	846	846
Field Population	-282	-564	-846	-846	-846	-846	-846	-846	-846	-846

**Total Impact**

	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Longer time served</b>										
Assault of LEO 1st Term	-	-	-	-	-	-	-	-	-	-
Assault of LEO 2nd Term	-	-	-	-	-	-	-	48	48	48
Resisting Arrest	-	-	46	83	83	83	83	83	83	83
<b>New admissions previously served probation/120 day</b>										
Assault of LEO 1st new term	2	4	6	8	10	12	14	16	18	20
Assault of LEO 2nd new term	128	256	384	512	640	768	896	1,024	1,024	1,024
Assault of LEO 3rd new term	20	40	43	57	57	57	57	57	57	57
Resisting Arrest	282	564	846	959	959	959	959	959	959	959
<b>Total Prison population</b>	<b>432</b>	<b>864</b>	<b>1,325</b>	<b>1,618</b>	<b>1,748</b>	<b>1,878</b>	<b>2,008</b>	<b>2,187</b>	<b>2,189</b>	<b>2,191</b>
<b>Total Field population</b>	<b>-432</b>	<b>-864</b>	<b>-1,325</b>	<b>-1,506</b>	<b>-1,636</b>	<b>-1,638</b>	<b>-1,640</b>	<b>-1,690</b>	<b>-1,692</b>	<b>-1,694</b>

The DOC would assume this legislation will result in long term costs as indicated in the chart below.

	# to prison	Cost per year	Total Costs for <b>prison</b>		fewer # to probation	Cost per year	Total cost for <b>probation and parole</b>	Grand Total - Prison and Probation (includes and 2% inflation <b>(More than..)</b> )
Year 1	432	(\$6,085)	(\$2,628,720)		(432)	(\$2,234)	\$965,088	(\$1,386,360)
Year 2	864	(\$6,085)	(\$5,257,440)		(864)	(\$2,234)	\$1,930,176	(\$3,393,809)
Year 3	1,325	(\$6,085)	(\$8,062,625)		(1,325)	(\$2,234)	\$2,960,050	(\$5,308,719)
Year 4	1,618	(\$6,085)	(\$9,845,530)		(1,506)	(\$2,234)	\$3,364,404	(\$6,877,823)
Year 5	1,748	(\$6,085)	(\$10,636,580)		(1,636)	(\$2,234)	\$3,654,824	(\$7,557,277)
Year 6	1,878	(\$6,085)	(\$11,427,630)		(1,638)	(\$2,234)	\$3,659,292	(\$8,576,873)
Year 7	2,008	(\$6,085)	(\$12,218,680)		(1,640)	(\$2,234)	\$3,663,760	(\$9,634,229)
Year 8	2,187	(\$6,085)	(\$13,307,895)		(1,690)	(\$2,234)	\$3,775,460	(\$10,949,771)
Year 9	2,189	(\$6,085)	(\$13,320,065)		(1,692)	(\$2,234)	\$3,779,928	(\$11,177,791)
Year 10	2,191	(\$6,085)	(\$13,332,235)		(1,694)	(\$2,234)	\$3,784,396	(\$11,410,551)

ASSUMPTION (continued)

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state in Section 650.520, there is hereby created a statewide program called the "Blue Alert System" referred to in this section as the "System" to aid in the identification, location, and apprehension of any individual or individuals suspected of killing or seriously wounding any law enforcement officer. The MHP's Criminal Justice Information Services Division estimates 600 hours at a cost of \$100 per hour for a total of \$60,000 (600 x \$100) based on the following projections:

100 Hours - Discovery and Design  
350 Hours - Write Code to Develop Blue Alert Module  
150 Hours - Testing  
600 Hours - Total x \$100 = \$60,000

In addition, MHP estimates an annual maintenance cost of \$5,000.

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.

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 at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation filed this year, SB 46, officials from the **Missouri Lottery Commission** assumed no fiscal impact from this proposal.

§552.020 DMH's Standing in Trials

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation filed this year, SB 221, officials at the **Department of Mental Health** and the **Office of the State Public Defender** each assume no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

§577.011 Victim Impact Program

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

Officials at the **Department of Revenue** assume this section is being added to include “Toby’s Law”, which requires a person who has been found guilty of driving while intoxicated under section 577.010 to complete a victim impact program approved by the court. The Department assumes the completion of the victim impact program will be monitored by the court and has no impact on the existing reinstatement requirements overseen by the Department.

§577.060 Penalty for Leaving the Scene of an Accident

Officials from the **Department of Corrections (DOC)** state this legislation modifies §577.060 by creating an enhanced penalty for persons who leave the scene of an accident when a death has occurred. By current statute, leaving the scene of an accident where physical injury was caused by another party is a class D felony (class E, 2017). This bill adds a penalty specifically for the instance of death which would be a class C felony (class D, 2017). As the current statute does not specifically address a resulting death in sentencing, an offense could incur a second charge of 1st or 2nd degree involuntary manslaughter. Through 2016, 1st degree manslaughter for recklessly causing death is also a class C felony, and as of January 2017 will be a more serious offense taking precedence over the bill's enhanced class D felony. These offenses would carry similar or greater sentencing to the enhanced class C felony proposed in this bill, thereby affecting no change.

Leaving the scene of an accident where a death has occurred remains no more serious than the corresponding charge of 1st degree manslaughter. Therefore, this legislation will have no fiscal impact on the DOC.

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 charged with the proposed new crime of leaving the scene of an accident when a death has occurred - a new class D 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.



ASSUMPTION (continued)

Officials at the **Department of Revenue (DOR)** assume this section is adding a class D felony if a death occurs as a result of the accident when a person commits the offense of leaving the scene of an accident. This will require a new charge code to be created by the State Judicial Records Committee. The DOR will map the created charge code to our existing MODL conviction code. This would require additional work done by a Management Analyst of 40 hours at \$20.94 per hour or \$838. The DOR assumes it will be able to absorb this cost. If multiple bills pass which require DOR resources and updates, the DOR could require additional FTEs and related equipment and expenses through the appropriations process.

Officials at the **Office of the State Courts Administrator** assume no fiscal impact from this proposal.

In response to similar legislation filed this year, HB 178, officials from the **Department of Public Safety - Missouri Highway Patrol** assumed no fiscal impact from this proposal.

House Amendment #1 and #2

Officials at the **Department of Revenue** assume no fiscal impact from this proposal.

**Oversight** assumes these amendments will not have a direct fiscal impact for this proposal.

House Amendment #3 - §650.058

Officials at **Department of Corrections (DOC)** assume this section states "any individual who was found guilty of a felony in a Missouri court and was later determined to be actually innocent of such crime solely as a result of DNA profiling analysis may be paid restitution." Currently, these individuals "may receive an amount of \$50 per day for each day of post conviction incarceration for the crime for which the individual is determined to be actually innocent." These payments are capped at \$36,500 per year which constitutes restitution for two years of wrongful incarceration. This legislation proposes to raise the amount to \$89 per day, an increase of \$39 per day.

Since FY 2007, the DOC has paid restitution for up to five offenders per year. In FY18, there will be three offenders receiving restitution payments. If each of these three individuals receive \$89 per day in FY18, then they would each receive \$32,489 per year for one year of wrongful incarceration which is \$4,011 less than what they are currently receiving for two years. Section 650.058.1 (4) states that no individual shall receive more than \$36,500 per year in restitution. Based upon this subsection, no individual would receive more in a given year than he/she is currently receiving but would receive the payment for a longer period of time.

We are unable to project the number of offenders who will be found "actually innocent" as a result of DNA analysis in any given year. In addition, it is unclear if this legislation would allow people who have already filed a petition to receive restitution for time wrongfully served in the

ASSUMPTION (continued)

DOC to refile and seek the extra \$39 per day that they would be entitled to. Therefore, we are unable to determine the impact of this legislation which makes our response an "unknown" cost.

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

House Amendment #4 - §478.004 and §487.200

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

In response to similar legislation from this year, House Amendment #2 on Perfected HCS for HB 219, officials at the **Department of Corrections**, the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Public Safety's Missouri Highway Patrol**, the **Department of Mental Health** and the **Department of Social Services** each assumed there would be no fiscal impact to their respective agencies from the proposal.

Officials at the **Springfield Police Department** assume no fiscal impact from this proposal.

House Amendment #5 - §570.095

Officials at the **Department of Revenue** assume no fiscal impact from this proposal.

Officials at the **Springfield Police Department** assume no fiscal impact from this proposal.

**Oversight** assumes this amendment will not have a direct fiscal impact for this proposal.

Bill as a Whole without House Amendments

Officials at the **Department of Economic Development**, the **Department of Social Services** and the **Missouri Ethics Commission** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **City of Kansas City**, the **Callaway County Commission**, **St. Louis County**, the **St. Louis County Board of Election Commission**, the **Jackson County Board of Election Commission** and the **Platte County Board of Election Commission** each assume no fiscal impact to their respective entities from this proposal.

Bill as a Whole with House Amendments #1, #2, #3, #4 and #5

Officials at the **Department of Health and Senior Services**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Missouri Department of Transportation**, the **Office of State Auditor**, the **Office of the State Treasurer**, the **Office of Prosecution Services** and the **State Tax Commission** each assume no fiscal impact to their respective agencies from this proposal.

**FISCAL IMPACT -**  
**State Government**

**GENERAL  
 REVENUE FUND**

Loss - DOR -  
 resulting from the  
 continuous alcohol  
 monitoring authority  
 §302.441

	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
	(Unknown)	(Unknown)	(Unknown)	(Unknown)

Cost - DOC -  
 incarceration and/or  
 supervision of  
 offenders §400.9-  
 501

	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)	(Greater than \$100,000)
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Costs - SOS

Personal Services	(\$48,333)	(\$58,580)	(\$59,166)	(\$63,434)
Fringe Benefits	(\$31,574)	(\$38,061)	(\$38,236)	(\$40,994)
One-time IT cost	(\$80,000)	\$0	\$0	\$0
<u>Total Costs - SOS</u>	<u>(\$159,907)</u>	<u>(\$96,641)</u>	<u>(\$97,402)</u>	<u>(\$104,428)</u>
FTE Change - §400.9-501	2 FTE	2 FTE	2 FTE	2 FTE

Costs - SPD -  
 Potential increase in  
 court reporter fees  
 §488.2250\*  
 \*Depending on fee  
 change, if any

	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
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Cost - DOC -  
 restitution payments  
 to offenders  
 §650.058

	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
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**FISCAL IMPACT -**  
**State Government**

	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
<u>Costs</u> - DOC - Increased incarceration expense partially offset by decreased supervision (parole) expense \$544,671	(More than <u>\$1,386,360</u> )	(More than <u>\$3,393,809</u> )	(More than <u>\$5,308,719</u> )	(More than <u>\$11,410,551</u> )
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>(Unknown, more than <u>\$1,646,267</u>)</b>	<b>(Unknown, more than <u>\$3,590,450</u>)</b>	<b>(Unknown, more than <u>\$5,506,121</u>)</b>	<b>(Unknown, more than <u>\$11,714,979</u>)</b>
Estimated Net FTE Change to the General Revenue Fund	2 FTE	2 FTE	2 FTE	2 FTE

**FEDERAL FUNDS**

<u>Loss</u> - DOR and MoDOT - potential to be out of compliance with DWI programs §302.441	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
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<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>
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<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
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## **HIGHWAY FUND**

<u>Cost</u> - MHP - development and ongoing costs for Blue Alert §650.520	<u>(\$60,000)</u>	<u>(\$5,125)</u>	<u>(\$5,253)</u>	<u>(\$6,244)</u>
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<b>ESTIMATED NET EFFECT ON HIGHWAY FUND</b>	<b><u>(\$60,000)</u></b>	<b><u>(\$5,125)</u></b>	<b><u>(\$5,253)</u></b>	<b><u>(\$6,244)</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020	Fully Implemented (FY 2027)
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## **LOCAL POLITICAL SUBDIVISIONS**

<u>Revenue</u> - \$10 surcharge on cases in the single noncharter county judicial circuits §488.2206	Less than \$847,680	Less than \$847,680	Less than \$847,680	Less than \$847,680
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<u>Cost</u> - increase in court reporter fees from municipal courts §488.2250*	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>Less than \$847,680</u></b>	<b><u>Less than \$847,680</u></b>	<b><u>Less than \$847,680</u></b>	<b><u>Less than \$847,680</u></b>
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\*Depending on fee change (if any)

## FISCAL IMPACT - Small Business

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

## FISCAL DESCRIPTION

### §302.441

This bill specifies that exemptions for ignition interlock device requirements shall not be granted to individuals who are self-employed or who wholly or partially own or control an entity that owns an employer-owned vehicle. The exemption by the court may also require that the person submit to continuous alcohol monitoring as an addition or alternative to an ignition interlock device.

### §400.9-501

This bill creates the offense of filing a false document, which is committed if a person files, causes to be filed, or attempts to file, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, or transferred to the Secretary of State or his or her designee, any county recorder of deeds or his or her designee, any municipal, county, district, or state government entity or office, or any credit bureau or financial institution specified documents. For the first offense, filing a false document is a class D felony. Filing false documents is a class C felony in certain specified instances.

Any person who is found guilty of committing such offense will be ordered to make full restitution to any person or entity that has sustained any actual losses as a result of the commission of such offense.

The bill specifies that a system must be created, by January 1, 2018, in which suspicious filings are logged, and outlines the process for petitioning the court when a person has probable cause to believe a filing is fraudulent.

### §488.2206

This act provides that any single noncharter county judicial circuit, rather than just the Thirty-First Judicial Circuit, shall collect a surcharge of up to ten dollars in all cases to be deposited in an account known as the "Justice Center Fund." In addition to costs associated with the construction, maintenance, and operation of a judicial facility, the act states that the funds from the surcharge may be used for the planning, including architectural and engineering plans, of a judicial facility or justice center. The county or municipality shall maintain records identifying all funds received and expenditures made from the fund.

### §488.2250

This bill repeals provisions of law that specify that court reporters shall receive \$3.50 per page in proceedings in any circuit court. The bill also repeals the requirement that court reporters be reimbursed at \$3.50 per page.

FISCAL DESCRIPTION (continued)

§544.671

This act provides that persons convicted of certain offenses against law enforcement officers, firefighters, or emergency medical service providers are ineligible for bail, continuation of bail, probation, or parole. The act also provides that persons convicted of resisting or interfering with arrest, detention, or stop are ineligible for probation or parole.

The act creates the Blue Alert System for the notification of the general public in instances where law enforcement officers are killed or injured. The Department of Public Safety is given certain duties relating to the operation of the system. Any person who knowingly makes a false report that triggers an alert of the system is guilty of a Class A misdemeanor.

§650.058

Currently, when an individual is found guilty of a felony and later found innocent of the crime as the result of a DNA profiling analysis the individual may be paid restitution in the amount of \$50 for each day of post conviction incarceration. This bill increases the amount to \$128 per day.

§650.520

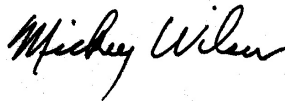
This bill establishes the "Blue Alert System" to aid in the identification, location, and apprehension of any individual or individuals suspected of killing or seriously injuring any local, state, or federal law enforcement officer. The Department of Public Safety will coordinate with local law enforcement agencies and public commercial television and radio broadcasters to effectively implement the system. Participation is entirely optional for local law enforcement agencies and federally licensed radio and television broadcasters, but the program will include at least: the Department of Public Safety, Highway Patrol, Department of Transportation, and Missouri Lottery. Knowingly making a false report that triggers an alert is a class A misdemeanor.

The bill also establishes the Blue Alert System Oversight Committee, which will develop criteria and procedures for the "Blue Alert System." The committee will be housed in the Department of Public Safety. The bill specifies how many members the committee will have, what entities will be represented, and the length of the terms members will serve.

Part of this legislation is federally mandated, it 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 Economic Development  
Department of Health and Senior Services  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Mental Health  
Department of Social Services  
Missouri Ethics Commission  
Missouri Department of Transportation  
Office of State Auditor  
Office of the State Treasurer  
Office of Prosecution Services  
Department of Corrections  
Department of Revenue  
Department of Public Safety  
Missouri Highway Patrol  
Office of the State Courts Administrator  
Office of the Secretary of State  
State Tax Commission  
Callaway County Commission  
City of Kansas City  
Jackson County Board of Election Commission  
Platte County Board of Election Commission  
St. Louis County  
St. Louis County Board of Election Commission



Mickey Wilson, CPA  
Director  
April 26, 2017

Ross Strobe  
Assistant Director  
April 26, 2017