

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5001-02
Bill No.: HCS for HB 1439
Subject: Crimes and Punishment; Children and Minors
Type: Original
Date: February 15, 2018

Bill Summary: This proposal changes the law regarding offenses to the family.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(\$5,172)	(\$12,660)	(\$19,370)
Total Estimated Net Effect on General Revenue	(\$5,172)	(\$12,660)	(\$19,370)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on FTE	0	0	0

☐ 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 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state this legislation repeals 568.045, RSMo, on offenses endangering the welfare of a minor. The rewritten statute adds “knowingly exposes obscene material or performance to a minor” as another offense under subsection 1. Violation of the statute is a class D felony for the first offense and a class C felony for subsequent offenses.

In FY2017, six persons were incarcerated and seven persons placed on probation for violating 568.045-003, the legislation which most closely resembles this proposal. It is estimated with passage of the proposed bill, each year, one more person is incarcerated and one more is sentenced to probation for a first offense. The average prison sentence is 5.8 years with an average of 3 years to first release; probation sentences are 5.0 years. With the low number of first offenders and historically lower recidivism rates of sex offenders, no subsequent offenders with a class C felony are anticipated. The initial impact, with the passage of the legislation, begins in FY19 with the addition of one more person to prison and one more persons to probation. The full impact to DOC could result in an additional 4.1 offenders incarcerated and 6.7 persons on probation beginning in FY24.

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

ASSUMPTION (continued)

The DOC cost of incarceration is \$17,003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

	# to prison	Cost per year	Total Costs for prison		# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	1	(\$6,206)	(\$5,172)		1	absorbed	\$0	(\$5,172)
Year 2	2	(\$6,206)	(\$12,660)		2	absorbed	\$0	(\$12,660)
Year 3	3	(\$6,206)	(\$19,370)		3	absorbed	\$0	(\$19,370)
Year 4	4	(\$6,206)	(\$26,343)		4	absorbed	\$0	(\$26,343)
Year 5	4.1	(\$6,206)	(\$27,542)		5	absorbed	\$0	(\$27,542)
Year 6	4.1	(\$6,206)	(\$28,093)		6	absorbed	\$0	(\$28,093)
Year 7	4.1	(\$6,206)	(\$28,655)		7	absorbed	\$0	(\$28,655)
Year 8	4.1	(\$6,206)	(\$29,228)		7	absorbed	\$0	(\$29,228)
Year 9	4.1	(\$6,206)	(\$29,812)		7	absorbed	\$0	(\$29,812)
Year 10	4.1	(\$6,206)	(\$30,409)		7	absorbed	\$0	(\$30,409)

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 charged with the proposed new crime of knowingly exposing obscene material or performance to a minor - added to the definition of Endangering the Welfare of a Child in the first degree - a 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.

Officials from the **Office of the State Courts Administrator** state there may be some impact, but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services** and the **Department of Public Safety - Missouri Highway Patrol** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE			
<u>Costs - DOC - increased number of prisoners from offenses to the family</u>	<u>(\$5,172)</u>	<u>(\$12,660)</u>	<u>(\$19,370)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$5,172)</u>	<u>(\$12,660)</u>	<u>(\$19,370)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<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

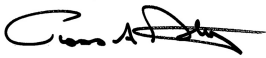
This bill adds knowingly exposing obscene material or an obscene performance to a minor to the offense of endangering the welfare of a child in the first degree.

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

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope", with a stylized, cursive script.

Acting Director
February 15, 2018