

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5144-02  
Bill No.: HB 1579  
Subject: Department of Corrections; Criminal Procedure  
Type: Original  
Date: April 25, 2018

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Bill Summary: This proposal modifies provisions relating to good time credit for offenders committed to the Department of Corrections.

**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2023)
General Revenue	(\$3,840,971)	(\$3,970,579)	(\$4,006,619)	(\$2,655,925)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$3,840,971)</b>	<b>(\$3,970,579)</b>	<b>(\$4,006,619)</b>	<b>(\$2,655,925)</b>

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2019	FY 2020	FY 2021	Fully Implemented (FY 2023)
<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 2019	FY 2020	FY 2021	Fully Implemented (FY 2023)
<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 2019	FY 2020	FY 2021	Fully Implemented (FY 2023)
General Revenue	70 FTE	70 FTE	70 FTE	70 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>70 FTE</b>	<b>70 FTE</b>	<b>70 FTE</b>	<b>70 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 2019	FY 2020	FY 2021	Fully Implemented (FY 2023)
<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 the proposed legislation revises and makes mandatory the earning of good time credit. The legislation also allows offenders serving life without parole to earn credits and earn a release after serving fifty years or thirty years if sentenced on or after August 28, 1994.

Credits can be earned from participating in work programs, which earn 15 days credit per month, and from completing institutional programs for education, restorative justice, drug treatment and vocational training with a credit of 90 days for each completed program. Credits can be lost for major conduct violations or accruing more than six conduct violations in the year when the credits were earned.

The legislation requires the Department to promulgate rules for the earning of credits and for the loss of credits and, without rules, the impact of the bill cannot be accurately measured. Section 558.041 and the new section 558.041 make no reference to how the goodtime credits are to be applied. DOC policy states that the good time credit shall be taken off the conditional release date and offenders not eligible for conditional release do not accrue good time credits. The DOC assumes that the same policy will apply to the new legislation. An estimate of good time credits that may be earned has been made for offenders released in FY17 who were employed by MVE, on work release, or who completed education, restorative justice, drug treatment and vocational programs while incarcerated. Credits were not granted if offenders received more than six conduct violations or a major conduct violation in the same year in which the credits were earned. Credits were not earned by parole violators and offenders serving a minimum prison term of 80% or 85% (not eligible for conditional release) and sex offenders who are required to complete the Missouri Sex Offender Program were also excluded.

The earned credits were taken off the conditional release date unless the release date would have been earlier than a minimum prison term (40% and 50%) or were required to serve a no parole term. There were 6,260 first releases serving a prison sentence of which 705 offenders would have earned good time credits (11.3%). The average reduction in time served, accounting for no credits when offenders were released on the minimum prison term date, is 0.3 years and the estimated reduction in the prison population is 212. The offenders who will be released earlier because of the good time credits are those offenders who the parole board assess as high risk and many are set to be released on the conditional release date. Offenders with low risk scores generally have guideline release dates which are earlier than the good time credit date. Included in the calculation is an estimate that 40% of first release offenders will return as parole violators.

ASSUMPTION (continued)

**Offenders released in FY17 who would have earned good time credits**

First Releases	Who Eamed	Percent	Average	Average	Time Served		Percent of sentence		Reduction in Population	
	Good Time Credits	Eamed Credits	Sentence (years)	Credits (years)	Before (years)	After (years)	Before (years)	After (years)		
	6,260	705	11.3%	5.7	0.7	4.4	4.1	63.3%	54.1%	212

As the legislation is written all offenders who enter prison with a high school diploma or high school equivalency will earn 90 days credit and offenders who work for MVE for long periods can earn significant good time credit. In FY17, eleven offenders were released who would have earned more than two years good time credit.

**Good time credits earned**

None	5,555
Less than 1 year	614
1-2	80
2-3	10
Over 3 years	1
Total	6,260

ASSUMPTION (continued)

Impact on the 10 year budget horizon

Change in prison admissions and probation openings with legislation

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
<b>New Admissions</b>										
Current Law	705	705	705	705	705	705	705	705	705	705
After Legislation	705	705	705	705	705	705	705	705	705	705
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
<b>Change (After Legislation - Current Law)</b>										
Admissions	0	0	0	0	0	0	0	0	0	0
Probations	0	0	0	0	0	0	0	0	0	0
<b>Cumulative Populations</b>										
Prison	x	x	x	x	-212	-212	-212	-212	-212	-212
Parole	x	x	x	x	212	212	212	212	212	212
Probation	x	x	x	x	x	x	x	x	x	x
<b>Impact</b>										
Prison Population	x	x	x	x	-212	-212	-212	-212	-212	-212
Field Population	x	x	x	x	212	212	212	212	212	212
<b>Population Change</b>	x	x	x	x	x	x	x	x	x	x
<b>P&amp;P Officers + or -</b>		0	0	0	0	0	0	0	0	0

After five years (FY2023), the prison population will have decreased by 212 with an equivalent increase in the parole population.

There are currently no offenders serving life without parole who have served the sentences of 50 or 30 years as specified who would be eligible to have good time credits applied to their release date.

This legislation will also impact operations, as it will require monthly monitoring and quarterly reporting of offender records to award and withdraw good time credit. The possibility of creating an electronic program to calculate this information was researched and found to be a non-viable option. Therefore, there will be a significant staff resource issue, as staff will be required to manually track when an offender would be awarded good time credit or when such credit should be withdrawn. In order to fulfill these requirements, it is estimated that an additional 28 Corrections Records Officers I (each at \$28,668) and an additional 42 Corrections Case Managers II (each at \$35,640) would be required throughout the department.

DOC assumes a cost of approximately \$4 million per year for the additional 70 FTE.

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

ASSUMPTION (continued)

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.

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.

ASSUMPTION (continued)

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

	fewer # to prison	Cost per year	Total Savings for reduced <b>prison</b> population	# to probation & parole	Change in # of DAI Staff	Total cost for <b>adding</b> <b>Division of</b> <b>Adult</b> <b>Institution</b> <b>staff</b>	Grand Total - Prison (includes a 2% inflation)
Year 1	0	(\$6,206)	\$0	0	70	(\$3,840,971)	(\$3,840,971)
Year 2	0	(\$6,206)	\$0	0	70	(\$3,970,579)	(\$3,970,579)
Year 3	0	(\$6,206)	\$0	0	70	(\$4,006,619)	(\$4,006,619)
Year 4	0	(\$6,206)	\$0	0	70	(\$4,043,106)	(\$4,043,106)
Year 5	(212)	(\$6,206)	\$1,424,126	212	70	(\$4,080,051)	(\$4,080,051)
Year 6	(212)	(\$6,206)	\$1,452,608	212	70	(\$4,117,458)	(\$4,117,458)
Year 7	(212)	(\$6,206)	\$1,481,660	212	70	(\$4,155,334)	(\$4,155,334)
Year 8	(212)	(\$6,206)	\$1,511,294	212	70	(\$4,193,686)	(\$4,193,686)
Year 9	(212)	(\$6,206)	\$1,541,519	212	70	(\$4,232,525)	(\$4,232,525)
Year 10	(212)	(\$6,206)	\$1,572,350	212	70	(\$4,271,856)	(\$4,271,856)

According to officials from the **Office of the Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Joint Committee on Administrative Rules** state this legislation is not anticipated to cause a fiscal impact beyond its current appropriation.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2023)
<b>GENERAL REVENUE</b>				
<u>Savings</u> - DOC - decrease in prison population	\$0	\$0	\$0	\$1,424,126
<u>Costs</u> - DOC				
Personal Service	(\$1,916,320)	(\$2,322,580)	(\$2,345,806)	(\$2,392,956)
Fringe Benefits	(\$1,170,447)	(\$1,411,366)	(\$1,418,264)	(\$1,432,268)
Expense & Equip.	<u>(\$754,204)</u>	<u>(\$236,633)</u>	<u>(\$242,549)</u>	<u>(\$254,827)</u>
Total Costs - DOC	(\$3,840,971)	(\$3,970,579)	(\$4,006,619)	(\$4,080,051)
FTE Change - DOC	70 FTE	70 FTE	70 FTE	70 FTE
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b><u>(\$3,840,971)</u></b>	<b><u>(\$3,970,579)</u></b>	<b><u>(\$4,006,619)</u></b>	<b><u>(\$2,655,925)</u></b>
Estimated Net FTE Change for General Revenue	70 FTE	70 FTE	70 FTE	70 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021	Fully Implemented (FY 2023)
	<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

Currently, certain offenders committed to the Department of Corrections may receive additional credit upon recommendation by the offender's institutional superintendent when the offender meets certain requirements specified in the bill. This bill specifies that such offenders shall instead receive additional credit, according to the provisions specified in the bill, if the offender meets the certain requirements, and it removes the requirement that the institutional superintendent recommend such credit.

The bill also revises the requirements relating to the policy for awarding credit, and it requires the Department of Corrections to adopt rules specifying programs or activities for which credit may be earned as well as creating criteria relating to participation in and completion of such programs or activities.

The accumulated credit of every offender shall be tallied monthly and maintained by the institution where the term of imprisonment is being served. A record of such accumulated credit shall be sent to the records office of the department on a quarterly basis, forwarded to the Division of Probation and Parole, and provided to the offender.

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 Secretary of State  
Joint Committee on Administrative Rules

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