

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6139-02
Bill No.: HCS for HB 2276
Subject: Firearms; Domestic Relations; Crimes and Punishment
Type: Original
Date: March 21, 2018

Bill Summary: This proposal modifies the offense of unlawful possession of a firearm.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(\$56,888)	(\$139,263)	(\$213,072)
Total Estimated Net Effect on General Revenue	(\$56,888)	(\$139,263)	(\$213,072)

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 8 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 Public Safety - Missouri Highway Patrol** assume the proposal would not fiscally impact their agency.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a measurable fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs which are difficult to determine.

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 possessing a firearm and having a prior conviction of domestic abuse, or is illegally or unlawfully in the United States, has been discharged from the Armed Forces under dishonorable conditions, or having been a citizen of the United States, has renounced United State citizenship; or has a court order that restrains such person from harassing, stalking, or threatening a petitioner or a child of such petitioner, or engaging in other conduct that would place such petitioner in reasonable fear of bodily injury to the petitioner or child; and includes a finding that such person represents a credible threat to the physical safety of such petitioner or child.

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.

Officials from the **Department of Corrections (DOC)** state several fiscal notes have been submitted during this session that relate to weapons or unlawful firearm possession and domestic violence. FN5639-01, 6618-02, 6653-01, 4668-02, 4668-03, 4426-01, and 6139-01 all deal with these various issues. This version creates a slightly different variation on these topics and will be evaluated on its own for more clarity on the issues.

ASSUMPTION (continued)

This bill adds a provision to the ex parte order of protection that prohibits possessing or purchasing a firearm while an order of protection is in effect. This element is then added to the class D felony crime of unlawful possession of a firearm, which creates a new nonviolent class D felony.

Domestic assault 4th degree prohibits causing physical injury or creating a substantial risk of death or serious physical injury by means of a deadly weapon or dangerous instrument as an element of the crime, a class A misdemeanor. These provisions are removed from the 4th degree and are now included in the domestic assault 3rd degree crime, which is a class E felony. The domestic assault 4th degree class A misdemeanor is supervised by DOC and there were 48 new probation admissions in FY17. Of those cases, it is unknown how many were the result of injury by means of a deadly weapon or dangerous instrument. Therefore, it will be considered a new violent class E felony.

Finally, new elements are added to the crime of unlawful possession of a firearm, a class D felony. As mentioned above, the first is for those violating orders of protection. Additionally, those illegally in the U.S. or who have renounced U.S. citizenship and anyone who has been dishonorably discharged from the military can be charged with unlawful possession of a firearm. Based on these population types, it is reasonable to consider these three new class D felonies.

This bill will create one new violent class E felony and three new nonviolent class D felonies. For a violent class E felony, the department estimates two will be sentenced to prison and one to probation. The average sentence for a violent Class E offense is 4 years, of which 3 years will be served in prison while the remaining year will be on parole and probation sentences will be 4 years. The cumulative impact on DOC is 6 additional offenders in prison and 6 on field supervision by FY 2022.

For the three new class D felonies, the department estimates nine people will be sentenced to prison and fifteen to probation. The average sentence for a nonviolent Class D offense is 5 years, of which 3.0 years will be served in prison while the remaining 2 years will be on parole and probation sentences will be 3 years. The cumulative impact on DOC is 27 additional offenders in prison and 63 on field supervision by FY 2023.

ASSUMPTION (continued)

New violent class E felony for domestic assault 3rd degree deadly weapon/injury

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	1	1	1	1	1	1	1	1	1	1
Cumulative Populations										
Prison	2	4	6	6	6	6	6	6	6	6
Parole			0	2	2	2	2	2	2	2
Probation	1	2	3	4	4	4	4	4	4	4
Impact										
Prison Population	2	4	6	6	6	6	6	6	6	6
Field Population	1	2	3	6	6	6	6	6	6	6
Population Change	3	6	9	12	12	12	12	12	12	12
P&P Officers more/less		0	0	0	0	0	0	0	0	0

Three new nonviolent class D felonies for unlawful possession of a firearm

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	9	9	9	9	9	9	9	9	9	9
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	15	15	15	15	15	15	15	15	15	15
Change (After Legislation - Current Law)										
Admissions	9	9	9	9	9	9	9	9	9	9
Probations	15	15	15	15	15	15	15	15	15	15
Cumulative Populations										
Prison	9	18	27	27	27	27	27	27	27	27
Parole				9	18	18	18	18	18	18
Probation	15	30	45	45	45	45	45	45	45	45
Impact										
Prison Population	9	18	27	27	27	27	27	27	27	27
Field Population	15	30	45	54	63	63	63	63	63	63
Population Change	24	48	72	81	90	90	90	90	90	90
P&P Officers more/less		0	0	0	0	0	0	0	0	0

ASSUMPTION (continued)

Three new class D felonies for unlawful possession and one new violent class E felony for domestic assault 3rd degree

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
Change (After Legislation)										
Admissions	11	11	11	11	11	11	11	11	11	11
Probations	16	16	16	16	16	16	16	16	16	16
Cumulative Populations										
Prison	11	22	33	33	33	33	33	33	33	33
Parole				11	20	20	20	20	20	20
Probation	16	32	48	49	49	49	49	49	49	49
Total Impact										
Prison Population	11	22	33	33	33	33	33	33	33	33
Field Population	16	32	48	60	69	69	69	69	69	69
Population Change	27	54	81	93	102	102	102	102	102	102
P&P Officers more/less		0	0	0	0	0	0	0	0	0

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.

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.

	# 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	11	(\$6,206)	(\$56,888)		16	absorbed	\$0	(\$56,888)
Year 2	22	(\$6,206)	(\$139,263)		32	absorbed	\$0	(\$139,263)
Year 3	33	(\$6,206)	(\$213,072)		48	absorbed	\$0	(\$213,072)
Year 4	33	(\$6,206)	(\$217,333)		60	absorbed	\$0	(\$217,333)
Year 5	33	(\$6,206)	(\$221,680)		69	absorbed	\$0	(\$221,680)
Year 6	33	(\$6,206)	(\$226,114)		69	absorbed	\$0	(\$226,114)
Year 7	33	(\$6,206)	(\$230,636)		69	absorbed	\$0	(\$230,636)
Year 8	33	(\$6,206)	(\$235,249)		69	absorbed	\$0	(\$235,249)
Year 9	33	(\$6,206)	(\$239,953)		69	absorbed	\$0	(\$239,953)
Year 10	33	(\$6,206)	(\$244,753)		69	absorbed	\$0	(\$244,753)

FISCAL IMPACT - State Government

FY 2019

FY 2020

FY 2021

GENERAL REVENUE

Costs - DOC - Increased prisoner cost
 from changes to unlawful possession of a
 firearm

(\$56,888)

(\$139,263)

(\$213,072)

**ESTIMATED NET EFFECT TO THE
 GENERAL REVENUE FUND**

(\$56,888)

(\$139,263)

(\$213,072)

FISCAL IMPACT - Local Government

FY 2019

FY 2020

FY 2021

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill modifies provisions relating to the unlawful possession of firearms.

This bill contains an emergency clause.

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 - Missouri Highway Patrol
Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Office of the State Courts Administrator

Ross Strobe



Acting Director
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