

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6411-01
Bill No.: HB 2454
Subject: Crimes and Punishment; Probation and Parole; Criminal Procedure
Type: Original
Date: March 2, 2018

Bill Summary: This proposal modifies provisions relating to the offense of fraudulent use of a credit device or debit device.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	(\$67,232)	(\$164,583)	(\$193,702)
Total Estimated Net Effect on General Revenue	(\$67,232)	(\$164,583)	(\$193,702)

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

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 fraudulent use of a credit device or debit service.

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 this legislation escalates a class A misdemeanor to a class E felony, with a mandatory 1 year incarceration. This misdemeanor has resulted in 13 convictions in FY17. Average sentence is expected to be 3.4 years with time to first release at 1.5 years. In addition, the department is estimating that 40% of the time on parole after first release will be spent in prison as a parole violator. Individuals convicted of this crime per legislation would not be eligible for probation or parole for the first year. This field increase would not be sufficient to require additional Probation & Parole officers.

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

ASSUMPTION (continued)

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.

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	13	(\$6,206)	(\$67,232)		0	absorbed	\$0	(\$67,232)
Year 2	26	(\$6,206)	(\$164,583)		0	absorbed	\$0	(\$164,583)
Year 3	30	(\$6,206)	(\$193,702)		9	absorbed	\$0	(\$193,702)
Year 4	30	(\$6,206)	(\$197,576)		14	absorbed	\$0	(\$197,576)
Year 5	30	(\$6,206)	(\$201,527)		14	absorbed	\$0	(\$201,527)
Year 6	30	(\$6,206)	(\$205,558)		14	absorbed	\$0	(\$205,558)
Year 7	30	(\$6,206)	(\$209,669)		14	absorbed	\$0	(\$209,669)
Year 8	30	(\$6,206)	(\$213,862)		14	absorbed	\$0	(\$213,862)
Year 9	30	(\$6,206)	(\$218,140)		14	absorbed	\$0	(\$218,140)
Year 10	30	(\$6,206)	(\$222,502)		14	absorbed	\$0	(\$222,502)

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE			
<u>Costs - DOC - increase in incarceration expense from additional prisoners p.4</u>	<u>(\$67,232)</u>	<u>(\$164,583)</u>	<u>(\$193,702)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$67,232)</u>	<u>(\$164,583)</u>	<u>(\$193,702)</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

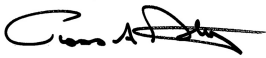
Currently, the penalty for the offense of fraudulent use of a credit or debit device is a class A misdemeanor unless the value of the property tax or value of the property or services obtained within any 30-day period is \$750 or more, in which case it's a class E felony. This bill increases the penalty to a class E felony with no exceptions. Additionally, the bill specifies that any person guilty of committing such offense shall not be eligible for probation or parole until such person has served at least 365 days of his or her sentence.

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

Ross Strobe

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

Acting Director
March 2, 2018