

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2485-03
Bill No.: Perfected HCB No. 2
Subject: Crimes and Punishment; Prisons and Jails; Probation and Parole; Alcohol;
Lotteries; Law Enforcement Officers and Agencies
Type: Original
Date: April 19, 2019

Bill Summary: This proposal modifies provisions relating to criminal justice.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
General Revenue	\$807,148	\$1,402,485	\$1,299,704	\$6,458,672
Total Estimated Net Effect on General Revenue	\$807,148	\$1,402,485	\$1,299,704	\$6,458,672

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
Conservation Commission	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Various State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 25 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
Federal	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
General Revenue	1	1	1	5
Total Estimated Net Effect on FTE	1	1	1	5

☒ 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 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
Local Government	Less than \$653,884 to greater than \$653,884	Less than \$784,660 to greater than \$784,660	Less than \$784,660 to greater than \$784,660	Less than \$784,660 to greater than \$784,660

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints of less than 24 hours, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented his fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§66.010 - Courts - House Amendment (HA) 6

Oversight assumes House Amendment 6 will have no fiscal impact on state or local governments as it provides full-time municipal court judges shall not be a judge or prosecutor for another court.

HA 4

Officials from the **Office of Administration - Budget & Planning (OA/BAP)** state HA 4 removes sections 217.149 to 221.523 relating to pregnancy furloughs, the free provision of feminine healthcare products by both DOC and local county jails, and a directive that counties establish restraint regulations and specific procedures for pregnant prisoners. These provisions did not impact total state revenue or the calculation under Title X, Section 18(e). Therefore, the removal of these provisions do not impact total state revenue or the calculation under Title X, Section 18(e).

Oversight notes that HA 4 removes sections 217.149, 221.065, 221.520, and 221.523 from the bill.

§217.199 - Certain healthcare products to be provided to prisoners at no cost

Officials from the **Department of Corrections (DOC)** state this bill adds tampons and sanitary napkins to be included under "healthcare products". These products should be made available at no cost to offenders while confined in a correctional center of the department.

In response to similar legislation from the current session (Perfected HB 303), the DOC stated they currently provide sanitary napkins (and not tampons) to offenders and the purpose of this bill is to provide a greater selection of healthcare products to offenders. Also, the DOC does not question the number of pads requested nor the frequency of the request made by an offender. The DOC stated the number of pads used in FY18 was approximately 2,664,000 with an average daily population of 3,100 for a total cost to the DOC of \$114,774.

ASSUMPTION (continued)

Currently, the female population within our facilities is 3,046. The DOC estimates an annual usage of 859 products per offender. Assuming 50 percent of this population will request tampons at a cost of \$0.18 per tampon and the other 50 percent will use sanitary napkins at a cost of \$0.0389 per napkin, the department is estimating an annual cost of \$171,678 $[(3,046/2) * 859 * \$0.18 = \$235,584, \text{rounded}] + [(3,046/2) * 859 * \$0.0389 = \$50,869, \text{rounded}] - \$114,774 \text{ (current expenditure)} = \$171,678$. The DOC stated it has nothing to base the assumption that 50 percent of offenders will use tampons over pads. It is a best-guess assumption.

Please note that other than the listed tampons and sanitary napkins, the term "healthcare product" is undefined under section 217.199. It is unclear from the bill what constitutes as a healthcare product. As a result, offenders would likely request a variety of products to be provided for free as a healthcare product. This could lead to lawsuits to determine if certain products apply under the law.

Oversight assumes the cost provided by the DOC is for a full year, therefore, Oversight has adjusted the cost for FY20 to ten months and included a 2.5 percent cost-of-living adjustment for FY21 and FY22. Oversight is extrapolating the costs of this section due to the costs in Section 558.043 not being fully implemented until FY29.

Oversight notes that the **Office of State Courts Administrator (OSCA)** states the proposal would not have a direct fiscal impact on their organization.

§217.697 - Early parole of certain offenders over age 65 (HA 3)

Officials from the **DOC** state the legislation proposes the parole board hold a parole hearing for offenders who have served 30 years or more, are serving a sentence with a no parole restriction of 50 years or more, and who are 65 or older. The statute excludes sentences for 1st degree murder, 565.020, RSMo. Offenders released must serve at least five years on parole.

At the end of FY19, there are estimated to be 18 offenders who will be at least 65, who will have served 30 years or more, and who meet the criteria for consideration for release. There will be an additional 24 offenders who will become eligible between FY20 and FY29 after adjusting for expected deaths. In the last ten years, there have been 18 deaths of offenders over 65 serving life without parole sentences.

It is difficult to estimate how many of these previously parole-ineligible offenders will be released upon the passage of this bill. However, considering the impact of HB 583 in 2007 which allowed life without parole offenders who had been the victims of domestic abuse to be

ASSUMPTION (continued)

paroled, five offenders were released. The average time served of offenders serving parole-eligible life sentences for murder is about 26 years. It seems reasonable some of the offenders who will become eligible for release will be paroled. The DOC estimates that in the first year following enactment of the legislation, five offenders will be paroled and, on average, one offender will be paroled in every subsequent year.

Because offenders serving a no parole for 50 were sentenced under a statute that was repealed in 1979, the offenders are now elderly and no offenders are expected to be admitted under this statute, Capital Murder, 565.001, RSMo.

The total impact is expected to be a reduction in the prison population of 14 after 10 years and an increase of 14 in the parole population.

The DOC cost of incarceration is \$17,224 per day or an annual cost of \$6,287 per offender. The DOC cost of probation or parole is determined by the number of Probation and Parole Officer II positions that would be needed to cover the new caseload.

	Number to prison	Cost per year	Total anticipated savings for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	-5	(\$6,287)	\$26,196	5	absorbed	\$0	\$26,196
Year 2	-5	(\$6,287)	\$32,064	5	absorbed	\$0	\$32,064
Year 3	-7	(\$6,287)	\$45,787	7	absorbed	\$0	\$45,787
Year 4	-8	(\$6,287)	\$53,375	8	absorbed	\$0	\$53,375
Year 5	-9	(\$6,287)	\$61,247	9	absorbed	\$0	\$61,247
Year 6	-10	(\$6,287)	\$69,414	10	absorbed	\$0	\$69,414
Year 7	-11	(\$6,287)	\$77,882	11	absorbed	\$0	\$77,882
Year 8	-12	(\$6,287)	\$86,661	12	absorbed	\$0	\$86,661
Year 9	-13	(\$6,287)	\$95,761	13	absorbed	\$0	\$95,761
Year 10	-14	(\$6,287)	\$105,190	14	absorbed	\$0	\$105,190

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

ASSUMPTION (continued)

§§311.060, 311.660, 313.220 - Activities extended to persons found guilty of criminal offenses

Oversight notes that the **DOC** and **OSCA** each state the proposal would not have a direct fiscal impact on their respective organization.

Officials from the **OA/BAP** state Sections 311.060 to 313.220 revise statutes related to liquor control and lottery commission enforcement. The provisions disallow the prohibition of persons from participating in the sale of intoxicating liquor or sale of lottery tickets solely on the basis of the persons having been found guilty of a felony offense. These provisions do not impact total state revenue or the calculation under Title X, Section 18(e). Therefore, OA/BAP assumes no fiscal impact.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these sections.

§513.655 - Asset forfeiture (HA 1)

Officials at the **Department of Public Safety - Missouri State Highway Patrol (MHP)** assumed an unknown impact from this proposal. This legislation would prohibit the Patrol from receiving any federal sharing of forfeiture assets as the federal government would now choose to retain them. The Patrol uses this money to purchase officer safety items including law enforcement equipment and supplies.. The Patrol is unable to determine the dollar amount of this impact, as it cannot foresee any seizure it might have otherwise received.

Officials from the **Missouri Office of Prosecution Services** state the fiscal impact for county prosecutors who may have received a share in proceeds from the federal adoption and forfeiture of property/cash in cases would also appear to be minimal to none. Based on reports 2019-012 and 2019-022 by the State Auditor, it appears that only one county prosecutor's office received funds from federal forfeiture in fiscal year 2017.

In response to a similar proposal (HCS for HB 444), officials at the **St. Louis County Police Department** assumed this proposal prohibits law enforcement agencies from transferring seized property to a federal agency in forfeiture litigation except if the seized property is \$100,000 or more in currency. Captain Boschert, the subject matter expert for St. Louis County Police, advised that the proposed legislation contradicts federal law and would cost the Department over \$100,000 in forfeiture funds.

Oversight inquired the St. Louis County Police Department about what federal statute was being contradicted and has not received a response from the Department.

ASSUMPTION (continued)

In response to a similar proposal (HCS for HB 444), officials at the **Jefferson County Sheriff's Department** assumed an annual cost of \$100,000 from this proposal.

In response to similar legislation in 2018, HB 1501, officials at the **Greene County Sheriff's Department** assumed a cost of several hundred thousand dollars per year.

In response to similar legislation in 2018, HB 1501, officials at the **Springfield Police Department** assumed a cost of \$78,000 in forfeiture funds each year. The \$78,000 would have been the amount remitted back to SPD by the federal agency to purchase needed law enforcement equipment and to fund training.

In response to similar legislation in 2018, HB 1501, officials at the **Joplin Police Department** assumed an unknown negative fiscal impact. The vast majority of the cases that go federal and are seized are less than \$100,000.

Officials at the **Office of the Attorney General, DOC and OSCA** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **State Public Defender's Office** assume no fiscal impact from this proposal.

In response to a similar proposal (HCS for HB 444), officials at the **St. Louis County Department of Justice Service** and the **Wellsville-Middletown R-1 School District** each assume no fiscal impact to their respective entities from this proposal.

In response to similar legislation from 2018, HB 1501, officials at the **Boone County Sheriff's Department** assumed no fiscal impact from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Oversight assumes the appropriate school districts would receive the proceeds of the seized property referred to in this bill. Therefore, Oversight will reflect a gain to local school districts. See page 8 for estimates of the effects on school districts and local law enforcement agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other local law enforcement agencies and school districts were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

ASSUMPTION (continued)

Oversight notes the following dollar value of dispositions by seizures as reported by the State Auditor's Office report on Compilation of 2018 Criminal Activity Forfeiture Act Seizures:

	2018	2017	2016
Pending	\$2,067,837	\$2,542,029	\$2,588,046
Returned	\$571,892	\$679,549	\$482,142
Transferred to Federal Agency	\$5,767,867	\$3,256,377	\$2,745,658
Transferred to State	\$100,915	\$180,363	\$97,067
Other	\$44,658	\$72,354	\$15,680
Disposition not reported	\$549,548	\$322,784	\$324,733
Total	\$9,102,717	\$7,053,456	\$6,253,326

Source: Office of the State Auditor's Report

The State Auditor's report states the overall dollar value for property seized in 2018 was \$9,102,717. Of that total, \$571,892 was returned, \$5,767,867 was transferred to a federal agency, and \$100,915 was transferred to the state. The disposition for \$2,067,837 was pending at the time of the report and no disposition was reported for \$549,548. There were also 699 reported seizures, of which 318 had criminal charges filed.

Oversight notes the average value of property transferred to a federal agency during the three years reported above is \$3,923,300 $((\$5,767,867 + \$3,256,377 + \$2,745,658)/3)$. Oversight notes the proposal states that no property seized under state law may be transferred to the federal government. Oversight is unsure if all of the property totaled in the Office of the State Auditor report was seized under state law. Therefore, Oversight will assume this will result in a reduction of seized property being transferred to the federal government of "up to" approximately \$3,923,300 each year and will, instead, be transferred to local school districts. Oversight understands that of the property transferred to the federal government, a portion is then transferred back to the law enforcement agency. Therefore, Oversight will reflect a loss to law enforcement of approximately \$3,138,640 $(\$3,923,300 \times 80\%)$ per year.

Oversight is unable to determine how much impact, if any, this would have on the Missouri Highway Patrol. Therefore, Oversight will reflect a loss of unknown that is greater than \$100,000 in asset seizure proceeds being returned from the federal government to the Missouri Highway Patrol.

ASSUMPTION (continued)

§§543.270 and 558.006 - Payment fines by offender

Officials at the **OSCA** assume an unknown impact.

Oversight notes the provisions of these sections allow for a judge to determine whether or not payment for a fine will be made. However, in no event shall recovery of costs incurred be the sole basis for issuance of a warrant. In addition, the judge can waive collection of the fee. Therefore, Oversight assumes an impact of \$0 to (Unknown) loss to various state and local funds. Listed below are examples of some of the state and local funds which court costs are distributed:

Fee/Fund Name	Fee Amount
Basic Civil Legal Services Fund	\$8.00
Clerk Fee	\$15.00 (\$12 State/\$3 County)
County Fee	\$25.00
State Court Automation Fund	\$7.00
Crime Victims' Compensation Fund	\$7.50
DNA Profiling Analysis Fund	\$15.00
Peace Officer Standards and Training (POST) Fund	\$1.00
Sheriff's Retirement Fund	\$3.00
Motorcycle Safety Trust Fund	\$1.00
Brain Injury Fund	\$2.00
Independent Living Center Fund	\$1.00
Sheriff's Fee	\$10.00 (County)
Prosecuting Attorney and Circuit Attorney Training Fund	\$4.00
Prosecuting Attorney Training Fund	\$1.00 (\$0.50 State/\$0.50 County)
Spinal Cord Injury Fund	\$2.00

ASSUMPTION (continued)

Officials from the **OA/BAP** state Sections 543.270 and 558.006 revise the handling of court-ordered fines. These provisions do not impact total state revenue or the calculation under Title X, Section 18(e); therefore, OA/BAP assumes no fiscal impact.

Oversight notes that the **State Public Defender's Office** state the proposal would not have a direct fiscal impact on their organization.

In response to similar legislation (HCS HB 192), officials at the **Boone County Sheriff's Department** assumed no fiscal impact to their respective agencies from this proposal.

In response to similar legislation (HB 192), officials at the **Jackson County Sheriff's Department** assumed no fiscal impact from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight notes that removing the imprisonment option for persons who fail to pay fines and court costs may have a direct unknown negative impact on fine and fee collections as well as unknown savings on jail costs, depending upon actions/decisions of judges. Oversight will reflect a positive to negative unknown for locals in the fiscal note.

§558.019 - Criminal offenses punished by a minimum prison term (HA 5)

Officials at the **Department of Corrections (DOC)** assume a direct impact from this legislation would result in a cost avoidance that would be fully implemented in FY2023 of \$5,868,866. The proposed legislation modifies the criminal offenses that are punished by a minimum prison term (MPT). The changes in this version of FN2485 makes the provisions concerning commitment count minimum prison terms retroactive to apply to offenders currently incarcerated.

The impact of the proposed changes are computed separately for the offenses that will not serve an MPT but currently do and those offenses (drug trafficking) that will serve a MPT but currently do not. The total impact to the DOC will be a decrease in the prison population of 192 in FY20 and then to 925 in FY23. There will be an offsetting increase in parole supervision.

The total impact was determined by the following:

I) The number of offenders who are sentenced to a minimum prison term for an eligible offense.

In FY18, there were 1,885 offenders who had a parole hearing and were sentenced to a minimum prison term with an eligible nonviolent offense. The average sentence ranged from 5.8 years by

ASSUMPTION (continued)

offenders who had served one prior DOC incarceration and were required to serve 40% of the sentence to 6.0 years by offenders who had served three or more DOC incarcerations and were required to serve 80% of the sentence before parole eligibility. In addition, there are estimated to be 45 offenders serving drug trafficking offenses who had prior DOC incarcerations and would have served an MPT. The trafficking offenses include drug trafficking 1st degree and drug trafficking 2nd degree with an enhanced sentence.

ii) The number of offenders who would have been required to serve a minimum prison term but who will be released by the Board of Probation and Parole after serving a shorter prison stay.

The estimate of how many offenders who will no longer be required to serve a minimum prison term and will be released earlier is based upon the Board's calculation of a guideline release date.

In FY18, there were 1,885 planned releases of offenders who had been required to serve a minimum prison term of which 809 (42.9%) are estimated to be offenders who could be released earlier. These are offenders who will be released on the MPT date and were not ASAP. ASAP offenders are offenders who had a guideline release date that was within the first 90 days of incarceration. This occurs when offenders are admitted with significant jail time that is credited to the time served. ASAP offenders (186) cannot be released on the guideline date because of the time required for the administrative tasks of holding a hearing and arranging for the release. The offenders who were released after the MPT date (890) are high risk offenders are also excluded from an early release if the MPT was removed.

The calculation of the reduction in the time served is the difference between the MPT time (2.9 years) and the average guideline time served (1.6 years) multiplied by the number of offenders to be released on the MPT date (809). The DOC is offsetting this reduction in time served by adding back 35% of the reduction as an estimate of increased recidivism from a longer period on parole. The estimate of 35% is the average time offenders discharged from parole in FY18 spent in prison after first release because their parole was revoked. After adding in the parole recidivism, the average reduction in time served is 0.8 years, resulting in a total reduction in the prison population of 712 which will be achieved by FY2023. The reduction in the prison population will be offset by an increase in parole population. The increase in the parole population is estimated to need an increase of three P&P officers.

iii) Increase in time served by offenders required to serve a minimum prison term for drug trafficking.

Using a similar methodology for calculating the impact of adding a MPT it is estimated that of the 45 drug trafficking offender with a MPT, 22 would be released on the MPT date and they will

ASSUMPTION (continued)

serve an average of 6.1 years before parole instead of the 3.1 years that the parole board would have required. This is an increase of 3.0 years, but there will be a decrease in parole recidivism of 1.1 years because the offenders are serving longer to first release. The total increase in the population is 42.

The combined impact is a decrease in the prison population of 670 and an increase in the parole population of 670.

iv) The release of currently incarcerated offenders serving a nonviolent MPT sentence.

The legislation in version 10 makes the change in the MPT retroactive and will remove the MPT from offenders serving eligible nonviolent offenses. The estimate of the offenders affected by the removal is the number of eligible MPT offenders who have a release date set on the MPT date but who have a guideline release that has already passed. The reduction in the time served is the time from today to the minimum prison term date. The reduction is offset by 35% to account for an increase in parole returns because of an increase in the time on supervision. An estimate is made for FY2020 and FY2021. The estimate for FY2021 is one third of the FY2020 estimate.

Applying the change in the MPT retroactively will effect 462 offenders in FY2020 and 152 offenders in FY2021 and the average reduction in the time served will be 0.4 years, resulting in a one-time reduction of 192 in the prison population in FY2020 and a reduction of 63 in FY2021.

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 2019 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. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 57 probation and parole districts. When projecting the impact for each probation and parole district, DOC uses actual caseload dispersion data to determine the caseload impact per district, and therefore project the number of officers needed when adding at least 51 offender cases in a district.

ASSUMPTION (continued)

The DOC cost of incarceration is \$17.224 per day or an annual cost of \$6,287 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.

DOC assumes the total impact for this version below:

	Fewer # in prison	Cost per year	Total Savings for prison	Increased # on probation & parole	Add'l P&P Officers needed FTE	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	(192)	(\$6,287)	\$1,005,920	192	0	\$0	\$1,005,920
Year 2	(255)	(\$6,287)	\$1,635,249	255	0	\$0	\$1,635,249
Year 3	(233)	(\$6,287)	\$1,524,052	233	0	\$0	\$1,524,052
Year 4	(925)	(\$6,287)	\$6,171,429	925	4	(\$302,563)	\$5,868,866
Year 5	(925)	(\$6,287)	\$6,294,857	925	4	(\$270,732)	\$6,024,125
Year 6	(925)	(\$6,287)	\$6,420,754	925	4	(\$273,645)	\$6,147,109
Year 7	(925)	(\$6,287)	\$6,549,169	925	4	(\$276,598)	\$6,272,571
Year 8	(925)	(\$6,287)	\$6,680,153	925	4	(\$279,582)	\$6,400,571
Year 9	(925)	(\$6,287)	\$6,813,756	925	4	(\$282,600)	\$6,531,156
Year 10	(925)	(\$6,287)	\$6,950,031	925	4	(\$285,660)	\$6,664,371

Oversight has no information which contradicts DOC's response and will reflect a net cost avoidance that is fully implemented in FY2023 of \$5,868,866.

Officials at the **OSCA, Missouri Office of Prosecution Services** and the **Office of the Attorney General** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **State Public Defender's Office** assume no fiscal impact from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

ASSUMPTION (continued)

§§559.016 and 559.600 - Probation

Oversight notes that the **DOC** and **OSCA** each state these sections would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Oversight contacted the DOC regarding the changes to the language in §559.016. The DOC stated the term of probation for misdemeanors (unless sexual in nature) or a municipal ordinance violation would not affect the DOC.

Oversight also contacted DOC and OSCA to obtain a listing and/or the number of private probation services in addition to the number of offenders utilizing the service. DOC officials stated the statute that permits private probation allows courts to contract to provide supervision to clients, therefore, DOC would not have this information. In addition, OSCA is not able to reliably provide a list of court-approved entities that provide private probation supervision services. Circuit courts are responsible for contracting with the companies that provide this type of service. Courts enter the probation record but can not tell if a private probation supervision services company is being used by an offender.

§577.010 - Driving while intoxicated

Oversight notes that the **DOC** and **OSCA** each state the proposal would not have a direct fiscal impact on their respective organizations.

In response to similar legislation (HB 912), officials from the **Joplin Police Department**, **Springfield Police Department**, **St. Louis County Department of Justice Services** and **St. Louis County Police Department** stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§590.650 - Fourth Amendment Affirmation Act

Officials from the **Attorney General's Office (AGO)** estimate potential costs of this proposal will require one additional Assistant Attorney General II (AAG) to implement the additional obligations of certifying, monitoring and studying law enforcement agency's discriminatory policing policies. This estimate may increase or decrease based on the number of agencies the AGO is required to annually certify, monitor, and study.

ASSUMPTION (continued)

Oversight does not have any information contrary to that provided by AGO. Therefore, Oversight will reflect AGO's impact for fiscal note purposes.

Officials from the **Department of Conservation (MDC)** assume an unknown fiscal impact to the department but likely less than \$100,000 due to training and staff time for reporting requirements.

Oversight does not have any information contrary to that provided by MDC. Therefore, Oversight will reflect MDC's impact for fiscal note purposes.

Officials from the **OA/BAP** state Section 590.650.7(6) imposes a maximum penalty of 25% annual general operating revenue from fines, bond forfeitures, and traffic violation court costs if after six years of review, a law enforcement agency does not address discriminatory policing practices. Penalties would be deposited into GR and earmarked for the Peace Officers Standards and Training Commission.

The aforementioned review will only begin after three consecutive years of reporting a significant disparity (the ratio of minority to white stops > 125% state disparity) in police stops.

Therefore, any increase to total state revenue would not be for at least nine years and would be dependent upon a law enforcement agency making no attempt to address discriminatory policing practices for that entire period.

Oversight notes, based on the OA/BAP response, it will be at least nine years before any revenue would be deposited into General Revenue which would only occur if the law enforcement agency made no attempt to address discriminatory policing practices. Oversight assumes the potential fiscal impact to local law enforcement is beyond the timeline scope of this note.

Oversight notes that the **DOC** states this section of the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

In response to similar legislation (HB 484), officials from the **Joplin Police Department** stated this could have a negative fiscal impact. By using the current formula for calculating disparities, there is very seldom an agency that does not show a disparity. This does not mean that there are issues with the agency. The way this bill is worded, it could cause additional work as well as negatively impacting the agency when there is probably no issue with the agency. By requiring the documentation of consent searches, this will cause more time to be spent on car stops.

ASSUMPTION (continued)

Oversight is unable to project a statewide cost; therefore, the impact to local law enforcement will be presented as \$0 to (Unknown).

Bill as a whole

Officials from the **Office of Administration - Division of Budget and Planning (OA/BAP)** state this proposal has no direct impact on OA/BAP and does not have a direct impact on general or total state revenues or the calculation under Title X, Section 18(e). Therefore, OA/BAP assumes no fiscal impact.

Oversight notes that the **Department of Natural Resources, Department of Labor and Industrial Relations, Department of Revenue, Department of Mental Health, Department of Public Safety - (Office of the Director and Alcohol and Tobacco Control), Department of Social Services, Missouri Lottery Commission, Department of Transportation and Office of Administration - Division of Personnel** have stated the proposal would not have a direct fiscal impact on their organizations.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other counties, police and sheriffs' departments were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2029)
GENERAL REVENUE FUND				
<u>Savings</u> - DOC p. 4-5 (\$217.697, HA 3)				
Decreased incarceration costs	\$26,196	\$32,064	\$45,787	\$105,190
<u>Savings</u> - DOC p. 10-13 (\$558.019, HA 5)				
Reduction in prison population	\$1,005,920	\$1,635,249	\$1,524,052	\$6,950,031
<u>Costs</u> - DOC (\$217.199) p. 3-4				
Healthcare products expense	(\$143,065)	(\$175,970)	(\$180,369)	(\$214,401)
<u>Costs</u> - DOC p. 10-13 (\$558.019, HA 5)				
Additional Probation and Parole Officer for decreased number of offenders in prisons	\$0	\$0	\$0	(\$285,660)
FTE Change - DOC	0 FTE	0 FTE	0 FTE	4 FTE

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2029)
GENERAL REVENUE FUND (continued)				
<u>Costs</u> - AGO p. 14-15 (\$590.650)				
Personal service	(\$42,083)	(\$51,005)	(\$51,515)	(\$55,231)
Fringe benefits	(\$23,333)	(\$28,153)	(\$28,309)	(\$29,441)
Equipment and expense	<u>(\$16,487)</u>	<u>(\$9,700)</u>	<u>(\$9,942)</u>	<u>(\$11,816)</u>
<u>Total Costs</u> - AGO	<u>(\$81,903)</u>	<u>(\$88,858)</u>	<u>(\$89,766)</u>	<u>(\$96,488)</u>
FTE Change - AGO	1 FTE	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$807,148</u>	<u>\$1,402,485</u>	<u>\$1,299,704</u>	<u>\$6,458,672</u>
Estimated Net FTE Change for General Revenue	1 FTE	1 FTE	1 FTE	5 FTE
CONSERVATION COMMISSION FUND				
<u>Costs</u> - MDC p. 15 (\$590.650)				
Increased training costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT TO THE CONSERVATION COMMISSION FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>

FISCAL IMPACT -
State Government

FY 2020
 (10 Mo.)

FY 2021

FY 2022

Fully
 Implemented
 (FY 2029)

**VARIOUS STATE
 FUNDS**

Loss - (§§543.270 and
 558.006) p. 9

Reduction in the
 collection of fines

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

**ESTIMATED NET
 EFFECT ON
 VARIOUS STATE
 FUNDS**

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

FEDERAL FUNDS

Loss - MHP p. 6 and 8
(§513.655, HA 1)

Sharing in seized
 assets with federal
 authorities

(Unknown,
greater than
\$100,000)

(Unknown,
greater than
\$100,000)

(Unknown,
greater than
\$100,000)

(Unknown,
greater than
\$100,000)

**ESTIMATED NET
 EFFECT ON
 FEDERAL FUNDS**

(Unknown,
greater than
\$100,000)

(Unknown,
greater than
\$100,000)

(Unknown,
greater than
\$100,000)

(Unknown,
greater than
\$100,000)

FISCAL IMPACT -
Local Government

FY 2020
 (10 Mo.)

FY 2021

FY 2022

Fully
 Implemented
 (FY 2029)

**LOCAL
 GOVERNMENT -
 POLITICAL
 SUBDIVISIONS**

Income - School
 Districts (§513.655,
 HA 1) p. 6-7

Proceeds of seized
 property - instead of
 property transferred
 to federal
 government

Up to \$3,269,417 Up to \$3,923,300 Up to \$3,923,300 Up to \$3,923,300

Loss - (§§543.270
 and 558.006) p. 9

Reduction in
 collection of fines

\$0 to
 (Unknown)

\$0 to
 (Unknown)

\$0 to
 (Unknown)

\$0 to
 (Unknown)

Loss - Local law
 enforcement
 agencies (§513.655,
 HA 1) p. 6-7

Seized property
 must not be
 transferred to a
 federal agency -
 therefore, local law
 enforcement
 agencies would not
 receive back a
 portion of the seized
 property from the
 federal agency

Up to
(\$2,615,533)

Up to
(\$3,138,640)

Up to
(\$3,138,640)

Up to
(\$3,138,640)

**ESTIMATED NET
 EFFECT ON
 LOCAL
 POLITICAL
 SUBDIVISIONS**

Up to \$653,884

Up to \$784,660

Up to \$784,660

Up to \$784,660

FISCAL IMPACT -
Local Government

FY 2020
 (10 Mo.)

FY 2021

FY 2022

Fully
 Implemented
 (FY 2029)

**LOCAL
 GOVERNMENT -
 COUNTY OR
 CITY JAILS**

Savings -
 (§§543.270 and
 558.006) p. 10

Reduction in jail
 time for non-
 payment offenders

Unknown

Unknown

Unknown

Unknown

Loss - (§§543.270
 and 558.006) p. 10

Reduction in fine
 and fee collections

(Unknown)

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET
 EFFECT ON
 LOCAL
 GOVERNMENT -
 COUNTY OR
 CITY JAILS**

Unknown to
(Unknown)

Unknown to
(Unknown)

Unknown to
(Unknown)

Unknown to
(Unknown)

FISCAL IMPACT -

Local Government

FY 2020
 (10 Mo.)

FY 2021

FY 2022

Fully
 Implemented
 (FY 2029)

**LOCAL
 GOVERNMENT -
 POLICE
 DEPARTMENTS**

Costs - Police

Departments

(\$590.650) p. 15-16

Increased
 workload

\$0 to (Unknown)

\$0 to (Unknown)

\$0 to (Unknown)

\$0 to (Unknown)

**ESTIMATED NET
 EFFECT ON
 LOCAL
 GOVERNMENT -
 POLICE
 DEPARTMENTS**

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

\$0 to
(Unknown)

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

§217.199

This bill specifies that the Director of the Department of Corrections must ensure that tampons and sanitary napkins are available for free to offenders while they are confined in any of the department's correctional centers. The director must ensure that the products conform with applicable industry standards.

§217.697

This bill specifies that any incarcerated offender 65 years of age or older who has no prior felony convictions of a dangerous felony, who is not a convicted sexual offender, who is serving a sentence of life without parole for a minimum of 50 years or more and who was sentenced under section 565.008 for an offense committed prior to October 1, 1984 must receive a parole hearing upon serving 30 years or more of his or her sentence.

FISCAL DESCRIPTION (continued)

The Parole Board must determine whether there is a reasonable probability that the offender will not violate the law upon release and therefore is eligible for release based upon a finding that the offender meets specified criteria.

§513.655

This bill prohibits law enforcement agencies and prosecuting authorities from entering into agreements to transfer or refer seized property to a federal agency.

§§543.270 and 558.006

Currently, associate circuit judges have the ability to commute fines and costs against defendants who are unable to pay when the defendant requests to be imprisoned in the county jail. The fine shall be credited at the rate of \$10 for each day's imprisonment This bill repeals that language.

The bill also repeals language that allows the court, upon a motion by the prosecuting attorney or by its own motion, to require a defendant to show cause as to why he or she should not be imprisoned for failure to pay and allows the court to imprison such defendant, if no good cause is shown, for various lengths depending on whether the offense was a misdemeanor or a felony.

Instead, when a defendant fails to pay a fine or an installment, the fine or installment may be collected by any means authorized for the enforcement of money judgments.

§558.019

Under current law, all classes of felonies, except those with specific minimum sentences and those involving controlled substances, are subject to statutorily required minimum prison terms. This act provides that such minimum prison terms shall only apply to certain named offenses as listed in the act.

The provisions of this act shall apply to felonies which a person pled guilty to, or was convicted of, prior to August 28, 2019.

§590.650

This bill establishes various provisions related to the prohibition against discriminatory policing.

The bill adds to the information about which an officer is required to report each time he or she stops a driver of a motor vehicle, and it adds to the Attorney General's responsibilities regarding

FISCAL DESCRIPTION (continued)

the analyzing of annual reports compiled by each law enforcement agency relating to discriminatory policing.

The bill requires each law enforcement agency to adopt a policy on discriminatory policing, as well as a policy eliminating discriminatory policing in the administration of consent searches, and it provides what such policy shall accomplish.

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

Attorney General's Office
Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Mental Health
Department of Public Safety
Department of Social Services
Lottery Commission
Department of Conservation
Department of Transportation
Missouri Office of Prosecution Services
Office of Administration - Budget & Planning
Office of Administration
Office of State Courts Administrator

SOURCES OF INFORMATION (continued)

State Public Defender's Office
St. Louis County Department of Justice Services
Joplin Police Department
Springfield Police Department
St. Louis County Police Department
Boone County Sheriff's Department
Jefferson County Sheriff's Department
Greene County Sheriff's Department
Wellsville/Middletown R-1 School District



Kyle Rieman
Director
April 19, 2019

Ross Strobe
Assistant Director
April 19, 2019