

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3694-07  
Bill No.: CCS for SS #2 for SCS for HB No. 1450, HB No. 1296, HCS for HB No. 1331,  
and HCS for HB No. 1898  
Subject: Crimes and Punishment  
Type: Original  
Date: May 11, 2020

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

**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
General Revenue*	(Could exceed \$1,622,204)	(Could exceed \$2,441,669)	(Could exceed \$3,131,461)	(Could exceed \$7,885,775)
<b>Total Estimated Net Effect on General Revenue*</b>	<b>(Could exceed \$1,622,204)</b>	<b>(Could exceed \$2,441,669)</b>	<b>(Could exceed \$3,131,461)</b>	<b>(Could exceed \$7,885,775)</b>

**\*Officials from the Department of Corrections assume a significant fiscal impact past the ten-year reporting timeframe from changes to §571.015 regarding prison terms for armed criminal action.**

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 33 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>Fully Implemented (FY 2030)</b>
Pretrial Witness Protection Services Fund*	\$0	\$0	\$0	\$0
Change of Venue for Capital Cases Fund	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>

\* Revenue and expenditures net to zero

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>Fully Implemented (FY 2030)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
General Revenue	(1) or (2) FTE	(2) or (3) FTE	(4) or (5) FTE	(2) or (3) FTE
<b>Total Estimated Net Effect on FTE</b>	(1) or (2) FTE	(2) or (3) FTE	(4) or (5) FTE	(2) or (3) FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2030)
<b>Local Government</b>	<b>Could exceed \$1,000,000</b>	<b>Could exceed \$1,000,000</b>	<b>Could exceed \$1,000,000</b>	<b>Could exceed \$1,000,000</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Due to time constraints, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). 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.

#### **§§217.850, 577.800, and 632.460 - Use of Unmanned Aircraft**

In response to a previous version, for the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** stated they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crimes relating to the unlawful use of an unmanned aircraft near a correctional center. These new crimes range from a new class A misdemeanor to a class B felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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** notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed with SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

ASSUMPTION (continued)

**Oversight** assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

In response to a previous version, **Oversight** notes the **Department of Corrections (DOC)** has stated the proposal would not have a direct fiscal impact on their organization. DOC notes the legislation includes the requirement that the department post a warning sign, no smaller than 11" x 14". The cost of the sign from Missouri Vocational Enterprise (MVE) is approximately \$28 each. Therefore, the cost to place one sign at all prisons would be \$588 (\$28 x 21).

**Oversight** notes §577.800.5 requires a 11" x 14" warning sign at each high capacity venue. Oversight assumes the cost for these signs will be minimal and, therefore, can be absorbed.

**Oversight** does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's no impact for fiscal note purposes.

In response to a similar proposal (HCS HB 1898), **Oversight** notes the **Missouri State Highway Patrol**, the **Springfield Police Department**, and the **St. Louis County Police Department** have each stated the proposal 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 in the fiscal note for these agencies.

Section 491.016 - Witness Statement Admissibility

In response to a similar proposal (HB 2195), officials at the **Office of the State Courts Administrator**, the **Office of the Attorney General**, the **Office of Prosecution Services** and the **Office of the State Public Defender** each 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 on the fiscal note.

Section 491.641 - Witness Protection Services Fund

In response to the previous version, officials from the **Department of Public Safety (DPS)** stated this proposal creates a new fund in the state treasury to be used solely by the DPS for the purposes of witness protection services. It does not establish a specific source from which monies will be collected by the fund. It also does not specify if fund monies can be spent on administration of the fund.

ASSUMPTION (continued)

The DPS believes it will require one (1) Public Safety Program Specialist to administer the fund.

In the proposed Governor's Budget, DPS is receiving additional FTE to work on grant programs. It is our anticipation that those FTE would cover administering this program. However, if those FTE are cut from the budget, DPS would require an additional one (1) FTE to administer this program.

**Oversight** does not have any information contrary to that provided by DPS. Therefore, Oversight will range DPS' response from \$0 (DPS will receive additional FTE in the FY 2021 budget) to DPS' impact for fiscal note purposes.

**Oversight** notes this proposed legislation creates the Pretrial Witness Protection Services Fund. The legislation authorizes the Department of Public Safety to disperse to reimburse expenditures by law enforcement agencies to provide for the security, health, safety and welfare of witnesses, potential witnesses, victims, and members of their families and households, if they are in danger of bodily injury or their life is in jeopardy as a result of giving testimony or being willing to testify in criminal proceedings instituted or investigations pending against a person alleged to have engaged in a violation of state law. This includes authority for local law enforcement agencies to purchase, rent or modify protected housing facilities and to contract with federal or state government agencies to obtain or provide the facilities or services necessary for such housing. In the FY 2021 budget, the Governor's Recommendation approved the funding for this program at \$1,000,000.

Section 544.170 - Arrest Without a Warrant Detention

**Oversight** notes, in response to a similar proposal (SCS for SB 520), the **St. Louis County Department of Justice Services** and the **Springfield Police Department** each stated the proposal 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 in the fiscal note for these agencies.

In response to similar provisions in SB 520, officials from the **Manchester Police Department** stated this proposal will have an impact on our jail in the short term but will lessen the cost in the long run. The cost is much higher when we arrest someone, release them after a 24-hour period (because an investigation is not complete) and then have to arrest them a second time when a warrant is later obtained. It is cheaper and safer to simply obtain a warrant while the person is still in custody. A 48-hour hold period will greatly enhance our ability to do this.

ASSUMPTION (continued)

In response to similar provisions in SB 520, officials from the **St. Louis County Police Department (SLCPD)** stated if the proposed legislation is passed, the SLCPD may experience cost savings. Currently, officers are required to complete warrant application prior to going off shift which often results in overtime costs. The proposed legislation would allow officers the opportunity to complete the warrant application process on their next shift, if scheduled within 48 hours, creating the potential for an unknown amount of cost savings.

It should be noted that the SLCPD does not operate a detention facility; therefore, the additional costs of housing, feeding, and medicating the offenders would be the responsibility of the St. Louis County Justice Services.

Officials from **St. Louis County** state in 2018, there were 2,230 24-hour holds in the St. Louis County Department of Justice Services. A 2015 survey of jail expenses and revenue from the Vera Institute of Justice calculated the “short-run” marginal cost (the cost affected as soon as the inmate population changes) at \$6.23. Increasing 24-hour holds to 48-hour holds would cost our department, at a minimum, approximately \$14,000 per fiscal year.

We are unable to determine the “long-run” marginal cost (adjustments made to staffing levels in response to changes in jail capacity) without seeing the changes in our population first hand.

**Oversight** notes the fiscal impact to the Manchester Police Department and the St. Louis County Police Department. Oversight is unable to project a statewide impact to local jailers for the additional time some persons maybe kept in custody. Oversight assumes the personnel savings to a department would be more than offset by the additional costs. Therefore, Oversight will reflect an impact to local governments as \$0 to (Unknown). Oversight notes this proposal is permissive and allows more flexibility to local law enforcement

Sections 545.140, 557.021, 562.014, 578.419, 578.421, 578.423, and 578.425 - Offense of Conspiracy

In response to a similar proposal (SCS for SB 602), officials from the **Office of State Public Defender (SPD)** stated they 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 conspiracy to commit an offense, a new class C felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

ASSUMPTION (continued)

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** notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed with SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

**Oversight** assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

In response to a similar proposal (SCS for SB 602), officials from the **Office of Attorney General (AGO)** assumed any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation.

**Oversight** does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

In response to a similar proposal (SCS for SB 602), **Oversight** noted the **Department of Corrections (DOC)** has stated the proposal would not have a direct fiscal impact on their organization. The changes will result in longer prison sentences; however, due to limited available data, the DOC estimates no fiscal impact. In FY 2019, no one was charged under §578.423 and §578.425 for gang-related activities.

ASSUMPTION (continued)

**Oversight** does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's no impact for fiscal note purposes.

In response to a similar proposal (SCS for SB 602), **Oversight** noted the **Department of Public Safety - Missouri State Highway Patrol**, and the **Office of State Courts Administrator** have each stated the proposal 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 in the fiscal note for these agencies.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, the City of St. Louis, St. Louis County, Jackson County, and county prosecutors and were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

Section 550.125 - Change of Venue for Capital Cases

In response to the previous version of this proposal, officials from the **Office of the State Courts Administrator (OSCA)** assumed there may be some impact but there is no way to quantify that currently due to the unknown number of sequestered jury capital cases on a change of venue with applications submitted for reimbursement from the proposed fund. OSCA may be able to absorb with existing staff and resources but would reflect any actual needs in future budget requests.

**Oversight** notes changes in section 550.125.3 provides "in the event that the amount disbursed is less than the costs set out in this section, the original county shall reimburse the county to which the case was transferred for the difference". Oversight assumes the reimbursement to one county will equal the cost of the county providing the reimbursement and the net impact to counties will be \$0.

In response to the previous version of this proposal, officials from the **Office of the Secretary of State (SOS)** state 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 \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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.

ASSUMPTION (continued)

**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.

In response to a similar proposal (HCS HB 1331), officials at the **Office of the Attorney General** and the **Office of the State Treasurer** each assumed no fiscal impact to their respective agencies from this proposal.

In response to a similar proposal (HB 1331), the **Office of the State Public Defender** assumed no fiscal impact from this proposal.

In response to a similar proposal (HCS for HB No. 1331), officials at the **Grundy County Circuit Clerk & Recorder's Office** stated they have not received any Change of Venue capital cases for their county.

In response to a similar proposal (HCS for HB No. 1331), officials at **Marion County** stated they have had one capital case in the past decade and are unaware of any capital cases that they have received a "Change of Venue".

In response to a similar proposal (HCS for HB No. 1331), officials at the **Wright County Circuit Clerk** assumed no fiscal impact from this proposal.

**Oversight** inquired the Office of the State Courts Administrator regarding this proposal. Information regarding a capital case can be found in the following sections of statute: §§546.720, 552.060, 565.020, 565.032, 562.051 and 576.070. Oversight notes that murder in the first or treason, both Class A Felonies, would be considered capital cases. According to the FY19 Charge Code Report from OSCA, a total of 48 guilty verdicts were charged as follows:

Jury Verdict Guilty (Class A/Unclassified)	33
Alford, Guilty, Guilty Written	8
Tried/Court Guilty	7
Treason	<u>0</u>
Total	48

**Oversight** notes that the new fund would be subject to appropriation by the General Assembly and that counties who apply for a reimbursement for a change of venue on a capital case could then receive reimbursement of costs associated with the sequestering of jurors. Oversight is unclear on how many change of venues occur for capital cases in the State of Missouri each year.

ASSUMPTION (continued)

Oversight notes that OSCA will disburse the money to the county if they are eligible for reimbursement. Oversight notes not all funds may be reimbursed to the county. Therefore, Oversight will reflect appropriations going to the new fund from general revenue as a \$0 to unknown and potential reimbursements to counties as a \$0 to unknown from the new fund for this proposal.

Sections 556.061 and 570.027 - Offense of Vehicle Hijacking

In response to a similar proposal (HB 1873), officials from the **Department of Corrections (DOC)** stated this bill creates the offense of vehicle hijacking and makes it an offense punishable as a class B felony, or as a class A felony given certain conditions.

The DOC has no prior data relating to these charges; therefore, the department estimates an impact comparable to the creation of a new class B felony.

For each new class B felony, the DOC estimates three people will be sentenced to prison and four to probation. The average sentence for a class B felony offense is 8.7 years, of which 5.1 years will be served in prison with 3.4 years to first release. The remaining 3.6 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 15 additional offenders in prison and 12 on field supervision by FY 2025.

In response to a previous version, officials from the **Office of State Public Defender (SPD)** stated they 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 vehicle-hijacking, a new class B felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

As this is a newly defined crime, SPD does not have any statistics relating to the number of possible cases.

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** notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY

ASSUMPTION (continued)

2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed with SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

**Oversight** assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Could exceed \$100,000) per year to the General Revenue Fund. Oversight also notes since this is a new crime, the SPD may need additional staff to provide representation for indigent persons charged with this proposed new crime and assumes if additional FTE are required in the future, the SPD will request additional funding through the appropriations process.

In response to a similar proposal (HB 1873), officials from the **Missouri Office of Prosecution Services (MOPS)** assumed the proposal will have no measurable fiscal impact on MOPS and no measurable fiscal impact to prosecutors (since the proposed crimes have similar elements to the existing crimes of robbery in the first degree and robbery in the second degree).

In response to a similar proposal (HB 1873), **Oversight** noted the **Department of Public Safety - Missouri State Highway Patrol**, the **Department of Social Services**, the **Office of State Courts Administrator**, the **St. Louis County Police Department**, the **Springfield Police Department**, and the **St. Louis County Department of Justice Services** have each stated the proposal 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 in the fiscal note for these agencies.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other police and sheriff's departments were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

ASSUMPTION (continued)Section 557.045 - Term of Imprisonment

The **DOC** states this is similar to FN 3178-03 which intends to prohibit the eligibility of probation, suspended imposition or execution of sentence, or conditional release for convictions of second-degree murder and convictions of dangerous felonies for people with associated armed criminal action or prior dangerous or class A or class B felony offenses.

Murder 2nd Degree

In FY 2019, there were 110 new admissions for 2nd degree murders under class A felony, with an average sentence of 21.8 years and 17.6 years as a time for first release. There were four new probations with an average term of 4.5 years.

After changes in this bill, no offenders convicted of second-degree murder will be sentenced to probation or receive SIS, SES, or CR, and all offenders will serve their full sentence prior to release from prison. The cumulative impact over the 10-year scope of these changes could be 40 new admissions to prison and 18 fewer field supervisions cases in FY 2030. The impact of this bill continues beyond this 10-year period, and should level off in FY 2042 with 76 new prison admissions and 7 fewer field supervision cases.

Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
<b>New Admissions</b>										
Current Law	110	110	110	110	110	110	110	110	110	110
After Legislation	114	114	114	114	114	114	114	114	114	114
<b>Probation</b>										
Current Law	4	4	4	4	4	4	4	4	4	4
After Legislation	0	0	0	0	0	0	0	0	0	0
<b>Change (After Legislation - Current Law)</b>										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	-4	-4	-4	-4	-4	-4	-4	-4	-4	-4
<b>Cumulative Populations</b>										
Prison	4	8	12	16	20	24	28	32	36	40
Parole										
Probation	-4	-8	-12	-16	-18	-18	-18	-18	-18	-18
<b>Impact</b>										
Prison Population	4	8	12	16	20	24	28	32	36	40
Field Population	-4	-8	-12	-16	-18	-18	-18	-18	-18	-18
<b>Population Change</b>					2	6	10	14	18	22

Dangerous Felony and ACA

In FY 2019, there were 478 new admissions to prison associated with a dangerous felony sentence, with an average sentence of 14.0 years. Offenders with dangerous felony sentences who were released from prison for the first time in FY 2019 served, on average, 82% of their sentence prior to first release. As per this legislation, the prison term will be 100% of the length of the sentence for those offenders who have prior dangerous felony convictions.

ASSUMPTION (continued)

Out of the 478 new prison admissions in FY 2019,

- 50 had both an armed criminal action charge associated with their FY 2019 admission to prison and a prior conviction for either a dangerous felony or a class A or class B felony.
- 46 had a prior conviction for either a dangerous felony or a class A or class B felony and did not have an armed criminal action charge associated with their FY 2019 admission to prison.
- 292 had an armed criminal action charge associated with their FY 2019 admission to prison and no prior conviction for either a dangerous felony or a class A or class B felony.

This legislation proposes that these 388 offenders will serve their entire sentence in prison. Therefore, we estimate that they will serve 14.0 years in prison instead of the 82% average to first release. Because of long-term sentence, the impact will not be observable within the 10-year scope of this note; however, DOC estimates that by the year 2034, there will be an addition of 660 new offenders in prison with an equivalent number of reductions in field population.

## Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
<b>New Admissions</b>										
Current Law	388	388	388	388	388	388	388	388	388	388
After Legislation	388	388	388	388	388	388	388	388	388	388
<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										
Parole										
Probation										
Impact										
Prison Population										
Field Population										
Population Change										

In FY 2019, there were 191 new court probations for dangerous felonies and ACA convictions, with an average sentence of 8.1 years. As per the proposed legislation, offenders with a prior conviction for either a dangerous felony or a class A or class B felony, or offenders with an armed criminal action charge associated with their FY 2019 probation case, will no longer be eligible for probation and their prison term will be 100% of the length of their sentence.

ASSUMPTION (continued)

Out of the 191 new probation cases in FY 2019,

- 8 had both an armed criminal action charge associated with their FY 2019 admission to prison and a prior conviction for either a dangerous felony or a class A or class B felony.
- 85 had a prior conviction for either a dangerous felony or a class A or class B felony and did not have an armed criminal action charge associated with their FY 2019 admission to prison.
- 1 had an armed criminal action charge associated with their FY 2019 admission to prison and no prior conviction for either a dangerous felony or a class A or class B felony.

As per the proposed changes, these 94 offenders will be sentenced to prison rather than probation and serve sentences of 8.1 years. The cumulative impact of these changes could be 761 new admissions to prison and 282 fewer field supervisions cases in FY 2029.

## Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	94	94	94	94	94	94	94	94	94	94
<b>Probation</b>										
Current Law	191	191	191	191	191	191	191	191	191	191
After Legislation	97	97	97	97	97	97	97	97	97	97
<b>Change (After Legislation - Current Law)</b>										
Admissions	94	94	94	94	94	94	94	94	94	94
Probations	-94	-94	-94	-94	-94	-94	-94	-94	-94	-94
<b>Cumulative Populations</b>										
Prison	94	188	282	376	470	564	658	752	761	761
Parole										
Probation	-94	-188	-282	-282	-282	-282	-282	-282	-282	-282
<b>Impact</b>										
Prison Population	94	188	282	376	470	564	658	752	761	761
Field Population	-94	-188	-282	-282	-282	-282	-282	-282	-282	-282
Population Change				94	188	282	376	470	479	479

Combined Impact

Although the estimated impact of this bill is nearly double what is presented here when projected over a longer time period, the combined impact of proposed changes could be an additional 801 offenders in prison and 300 fewer offenders under supervision in the field by FY 2030.

In response to the previous version of this proposal, officials at the **Department of Social Services (DSS)** assumed the following:

This modification removes eligibility for the dual jurisdiction program for those youth that commit the offenses outlined in the proposal. The exact number impacted is difficult to quantify but if enacted this proposal would lessen the number of youth eligible for consideration to participate in the dual jurisdiction program.

ASSUMPTION (continued)

Section 571.015 - Armed Criminal Action Prison Terms

The DOC stated this section increases imprisonment terms for offenders with ACA crimes and eliminates the eligibility for probation, parole, CR, SIS, or SES and requires sentences for ACA to be served consecutively. This legislation does not create any new criminal offenses, it increases criminal penalties for existing offenses. Because of this fact there is no projected fiscal impact within the ten-year timeframe for fiscal note responses. However, the department does anticipate **significant fiscal impact** past the ten-year reporting timeframe.

In response to a similar proposal (HB 1453), for the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** stated they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the enhanced punishment for armed criminal action in conjunction with other offenses. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

The SPD assumes no new offenses but does expect enhanced punishment for armed criminal action in conjunction with other offenses. **Oversight** assumes more resources may be expended on cases that have now increased prison time.

In Fiscal Year 2019, **SPD's** Trial Division opened 174 cases under charge code 571.015 of the 62,002 total cases opened.

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** notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed with SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

### ASSUMPTION (continued)

**Oversight** assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

### Section 571.070 - Unlawful Possession of a Firearm

The **DOC** stated this section enhances the felony class of unlawful possession of a firearm from a class D felony to a class C felony for offenders also convicted of a dangerous felony.

In FY 2019, there were 85 new admissions under section 571.070 for a class D felony, with an average sentence of 5.0 years, and 2.1 years for the first release. There were 246 sentences to either probation or 120 days, with an average term of 4.4 years.

Out of these offenders, nine were also convicted of dangerous felony. None was convicted of drug trafficking. All of these offenses are either a class A, B or U felony charges, higher than a class C felony. Thus, these offenders are already serving longer sentences than that for a Class C felony. Changing a class D to a class C felony will result in a longer stay, only if these sentences are consecutive instead of concurrent, which is not the case and is not addressed in this bill.

Nevertheless, assuming a consecutive sentence of class C felony for unlawful firearm possession, these nine offenders will now be charged under class C felony. The average sentence for a new class C felony is 6.9 years, of which 3.7 years will be served in prison with 2.1 years to first release. The remaining 3.2 years will be on parole. Probation sentences will be 3 years.

The cumulative impact, assuming nine new admissions and no new probations, will be six new prison admissions and (6) new field supervisions by FY2024.

### Sections 579.065 and 579.068 - Offense of Trafficking Drugs

Adds felony classes A and B for these drugs (flunitrazepam, gamma-hydroxybutyric acid, fentanyl or carfentanyl) if they are charged under trafficking 1st degree, depending upon quantity of drugs involved and first or subsequent offense. Similarly, it adds them to felony B and C, if the offense is charged under trafficking 2nd degree.

The DOC is expecting that the average sentence length and average first releases from the prison as well as parole and probation sentences will remain the same for these new offenders, however the number may increase because of the addition of new drugs under this legislation.

ASSUMPTION (continued)

In FY2019, there were seven new admissions under charges of 1st degree drug trafficking Class A felony, with 12.5 years of average sentence, and 7.2 years average time for first release, 4 new probations with average term of 5 years. For 1st degree class B felony, there were six new admissions with average sentence of 8.7 years and four new probations with average term of 5 years.

For 2nd degree drug trafficking felony class A, there were five new admissions with an average sentence of 10.7 years, 6.7 years to first release and 5 new probations with 4.2 years average probation term. For 2nd degree drug trafficking class B felony, there were 30 new admissions, 9.7 years average sentence, 2.8 years to first release and 6 new probations with 4.7 years average term.

For 2nd degree drug trafficking class C felony, there were 11 new admissions with 7.2 years average sentence length, 1.3 years to first release, and 14 new probations with 3.8 years average term length.

Estimating that the changes in the bill result in the same number of new admissions and probations, we will see no new impact by this new change. However, if we assume an increase of at least 30% new admissions and probations, based on addition of these new drugs to the list, and assuming same sentence lengths, the likely impact will be approximately 96 new prison admissions and 109 additional field population by FY2030.

## Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
<b>Drug Trafficking 1st Degree Class A</b>										
Prison Population	2	4	6	8	11	13	15	17	19	19
Field Population	1	2	4	5	6	6	6	6	6	8
<b>Drug Trafficking 1st Degree Class B</b>										
Prison Population	2	4	5	7	7	7	7	7	7	7
Field Population	1	2	4	5	8	10	11	13	14	14
<b>Drug Trafficking 2nd Degree Class A</b>										
Prison Population	2	3	5	6	8	9	11	12	12	12
Field Population	2	3	5	6	6	6	6	6	8	9
<b>Drug Trafficking 2nd Degree Class B</b>										
Prison Population	9	18	27	36	45	47	47	47	47	47
Field Population	2	4	5	7	8	16	25	34	43	49
<b>Drug Trafficking 2nd Degree Class C</b>										
Prison Population	3	7	10	11	11	11	11	11	11	11
Field Population	4	8	13	18	21	25	28	29	29	29
<b>Cumulative Impact</b>										
Prison Population	18	35	54	69	82	87	91	94	96	96
Field Population	10	20	30	41	50	62	76	87	100	109
Population Change	28	55	84	110	132	149	167	181	196	205

ASSUMPTION (continued)Total Estimated Cumulative Impact

The total estimated cumulative impact of this legislative proposal over the next 10 years is an increase of 918 people in prison and a decrease of 157 people under supervision by FY 2030.

	# to prison	Cost per year	Total Costs for <b>prison</b>	Change in probation & parole officers	Total savings for <b>probation and parole</b>	# to Probation and Parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	119	(\$6,386)	(\$633,278)	(2)	\$111,074	(84)	(\$522,204)
Year 2	237	(\$6,386)	(\$1,543,752)	(3)	\$202,083	(168)	(\$1,341,669)
Year 3	357	(\$6,386)	(\$2,371,906)	(5)	\$340,445	(252)	(\$2,031,461)
Year 4	479	(\$6,386)	(\$3,246,123)	(5)	\$344,120	(251)	(\$2,902,002)
Year 5	593	(\$6,386)	(\$4,099,060)	(5)	\$347,839	(244)	(\$3,751,221)
Year 6	696	(\$6,386)	(\$4,907,259)	(4)	\$281,283	(220)	(\$4,625,976)
Year 7	798	(\$6,386)	(\$5,738,955)	(4)	\$284,335	(195)	(\$5,454,621)
Year 8	899	(\$6,386)	(\$6,594,620)	(4)	\$287,418	(181)	(\$6,307,202)
Year 9	914	(\$6,386)	(\$6,838,746)	(3)	\$217,906	(166)	(\$6,620,840)
Year 10	918	(\$6,386)	(\$7,006,049)	(3)	\$220,274	(157)	(\$6,785,775)

If this impact statement has changed from statements submitted in previous years, it is because the 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 2019, 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 2020 fiscal notes. 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 would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. 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 44 probation and parole districts.

**ASSUMPTION** (continued)

The DOC cost of incarceration is \$17.496 per day or an annual cost of \$6,386 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.

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

In response to a previous version, for the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** stated they 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 trafficking fentanyl, or gamma-hydroxybutyric acid, or flunitrazepam. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In Fiscal Year 2019, SPD's Trial Division opened 193 drug cases of the 62,002 total cases opened.

Statute	Description	Number of Cases
579.065	Trafficking Drugs 1 <sup>st</sup> Degree	55
579.068	Trafficking Drugs 2 <sup>nd</sup> Degree	138
	<b>Total Cases</b>	193

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** notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed with SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at

ASSUMPTION (continued)

APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

**Oversight** assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Bill as a Whole

In response to the previous version of this proposal, officials from the **Missouri Office of Prosecution Services (MOPS)** assumed the proposal will have no measurable fiscal impact on MOPS. 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.

In response to the previous version of this proposal, officials from the **Joint Committee on Administrative Rules (JCAR)** stated the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

**Oversight** assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

In response to the previous version of this proposal, officials from the **Office of the Secretary of State (SOS)** stated 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 \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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 require additional resources.

ASSUMPTION (continued)

**Oversight** notes, in response to the previous version of this proposal, officials from the **Department of Public Safety - Missouri State Highway Patrol** stated the proposal would not have a direct fiscal impact on their organization. The MHP notes in version 3694-01, the language stated that laboratories would have to perform quantitative testing of fentanyl/fentanyl derivatives, while in this version the language states "substance containing a detectable amount" of fentanyl.

Oversight notes, in response to the previous version of this proposal, the **Department of Commerce and Insurance**, the **Department of Revenue**, the **Department of Public Safety - Fire Safety**, the **Department of Natural Resources**, the **Department of Mental Health**, the **Department of Conservation**, **Department of Transportation**, the **Metropolitan St. Louis Sewer District**, the **St. Louis County Police Department** and the **St. Louis County Department of Justice Services** each 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.

In response to a similar proposal (SS SCS SB Nos. 602, 778, and 561), **Oversight** notes the **Attorney General's Office** and **State Treasurer's Office** each stated the proposal would not have a direct fiscal impact on their organizations.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, the City of St. Louis, counties, county prosecutors, police and sheriff's departments, utilities, and the St. Louis Region Convention and Sports Center were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

**FISCAL IMPACT -**  
**State Government**

	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2030)
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**GENERAL  
REVENUE FUND****Savings - DOC -****Fewer P&P Officers**

Personal Service	\$64,588	\$117,420	\$197,660	\$127,149
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Fringe Benefits	\$40,700	\$73,992	\$124,555	\$80,123
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Equipment and

Expense	<u>\$5,786</u>	<u>\$10,671</u>	<u>\$18,230</u>	<u>\$13,002</u>
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<b>Total Savings - DOC</b>	<b><u>\$111,074</u></b>	<b><u>\$202,083</u></b>	<b><u>\$340,445</u></b>	<b><u>\$220,274</u></b>
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FTE Change -

DOC p. 19	(2) FTE	(3) FTE	(5) FTE	(3) FTE
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**Costs - DOC p. 19****Increased**

incarceration costs	(\$633,278)	(\$1,543,752)	(\$2,371,906)	(\$7,006,049)
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**Costs - SPD**

Salaries, fringe

benefits, and

equipment and

expense-various

(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
-----------------------------	-----------------------------	-----------------------------	-----------------------------

**Costs - DPS p. 5-6**

(\$491.641)

Administer Pretrial

Witness Protection

Services Fund p.

Personal Services

Fringe Benefits

Equipment and

Expense

**Total Costs - DPS**

FTE Change - DPS

\$0 or...	\$0 or...	\$0 or...	\$0 or Could exceed...
(\$38,476)	(\$46,633)	(\$47,099)	(\$47,099)
(\$22,378)	(\$27,007)	(\$27,162)	(\$27,162)
<u>(\$3,346)</u>	<u>(\$871)</u>	<u>(\$893)</u>	<u>(\$893)</u>
<u>\$0 or (\$64,200)</u>	<u>\$0 or (\$74,511)</u>	<u>\$0 or (\$75,154)</u>	<u>\$0 or (\$75,154)</u>
0 or 1 FTE	0 or 1 FTE	0 or 1 FTE	0 or 1 FTE

**FISCAL IMPACT -**  
**State Government**FY 2021  
(10 Mo.)

FY 2022

FY 2023

Fully  
Implemented  
(FY 2030)**GENERAL  
REVENUE FUND**  
(continued)Costs - OSCA p. 9  
(§550.125)Appropriated funds  
to the Change of  
Venue for Capital  
Cases Fund

\$0 to (Unknown) \$0 to (Unknown) \$0 to (Unknown) \$0 to (Unknown)

Transfer Out - To  
Pretrial Witness  
Protection Services  
Fund §491.641 p. 6(\$1,000,000)(\$1,000,000)(\$1,000,000)(\$1,000,000)**ESTIMATED NET  
EFFECT ON THE  
GENERAL  
REVENUE FUND****(Could exceed**  
**\$1,622,204)****(Could exceed**  
**\$2,441,669)****(Could exceed**  
**\$3,131,461)****(Could exceed**  
**\$7,885,775)**Estimated Net FTE  
Change for the  
General Revenue  
Fund

(1) or (2) FTE

(2) or (3) FTE

(4) or (5) FTE

(2) or (3) FTE

**FISCAL IMPACT -**  
**State Government**

	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2030)
<b>PRETRIAL WITNESS PROTECTION SERVICES FUND</b>				
<u>Transfer In - From</u> General Revenue Fund (\$491.641) p. 6	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
<u>Transfer Out - Local</u> Political Subdivisions (Police and Sheriff's Departments) p. 6	<u>(\$1,000,000)</u>	<u>(\$1,000,000)</u>	<u>(\$1,000,000)</u>	<u>(\$1,000,000)</u>
<b>ESTIMATED NET EFFECT ON THE PRETRIAL WITNESS PROTECTION SERVICES FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

L.R. No. 3694-07

Bill No. CCS for SS #2 for SCS for HB No. 1450, HB No. 1296, HCS for HB No. 1331, and HCS for HB No. 1898

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May 11, 2020

**FISCAL IMPACT -**  
**State Government**

FY 2021  
(10 Mo.)

FY 2022

FY 2023

Fully  
Implemented  
(FY 2030)

**CHANGE OF  
VENUE FOR  
CAPITAL CASES  
FUND**

Transfer in -  
appropriated funds  
from General  
Revenue \$550.125  
p 9-10

\$0 to Unknown

\$0 to Unknown

\$0 to Unknown

\$0 to Unknown

Costs - OSCA -  
reimbursements to a  
county that has a  
change in venue on a  
capital case from  
another county that  
sequestered jurors

\$0 to  
(Unknown)

\$0 to  
(Unknown)

\$0 to  
(Unknown)

\$0 to  
(Unknown)

**ESTIMATED NET  
EFFECT ON THE  
CHANGE OF  
VENUE FOR  
CAPITAL CASES  
FUND**

**\$0 to Unknown**

**\$0 to Unknown**

**\$0 to Unknown**

**\$0 to Unknown**

**FISCAL IMPACT -****Local Government**FY 2021  
(10 Mo.)

FY 2022

FY 2023

Fully  
Implemented  
(FY 2030)**LOCAL  
GOVERNMENTS**Transfer In - From  
Witness Protection  
Services Fund  
(\$491.641) p. 6

\$1,000,000

\$1,000,000

\$1,000,000

\$1,000,000

Savings - Police and  
Sheriff's Department  
- Potential reduction  
in costs if law  
enforcement is  
allowed to complete  
additional duties  
regarding an arrested  
person within 48  
hours §544.170 p. 7\$0 to  
Unknown\$0 to  
Unknown\$0 to  
Unknown\$0 to  
UnknownCosts - Police and  
Sheriff's  
Departments  
(\$544.170) Increased  
costs to house  
individuals kept in  
custody p. 7

\$0 to (Unknown)

\$0 to (Unknown)

\$0 to (Unknown)

\$0 to (Unknown)

Reimbursement/  
Payment of Costs  
between Counties  
(\$550.125) -  
Reimbursement  
received and  
payment made by  
counties to one  
another

\$0

\$0

\$0

\$0

**FISCAL IMPACT -****Local Government**FY 2021  
(10 Mo.)

FY 2022

FY 2023

Fully  
Implemented  
(FY 2030)**LOCAL  
GOVERNMENTS  
(continued)**Reimbursement of  
Costs - (\$550.125)  
Payments for a  
change of venue for  
a capital case held in  
counties\$0 to Unknown\$0 to Unknown\$0 to Unknown\$0 to Unknown**ESTIMATED NET  
EFFECT ON  
LOCAL  
GOVERNMENT -  
POLITICAL  
SUBDIVISIONS**Could exceed  
\$1,000,000Could exceed  
\$1,000,000Could exceed  
\$1,000,000Could exceed  
\$1,000,000**FISCAL IMPACT - Small Business**

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

**FISCAL DESCRIPTION**

This act modifies provisions relating to criminal offenses.

**CHANGE OF VENUE FOR CAPITAL CASES (Section 550.125)**

This bill creates the "Change of Venue for Capital Cases Fund", which will consist of money appropriated by the General Assembly. Money in the fund is to be used solely for reimbursement to a county that receives a capital case from another county. At the conclusion of a capital case for which the venue was changed from one county to another, the county that received the case may apply to the Office of State Courts Administrator (OSCA) for reimbursement of any costs associated with sequestering jurors. If a county is eligible for reimbursement, OSCA shall disburse the money to the county. If OSCA determines that a county is not eligible for reimbursement, the county in which the capital case originated shall be responsible for reimbursement.

### FISCAL DESCRIPTION (continued)

#### OFFENSE OF CONSPIRACY (Sections 545.140, 557.021, AND 562.014)

Under this act, if two or more defendants are charged with being joint participants in a conspiracy, it is presumed there is no substantial prejudice in charging both defendants in the same indictment or being tried together.

Under current law, guilt for an offense may be based upon a conspiracy to commit an offense when a person, with the purpose of promoting the commission of the offense, agrees with another person that they will engage in conduct to commit the offense. A person cannot be convicted of an offense based upon a conspiracy to commit the offense unless he or she committed an overt act.

This act modifies provisions regarding conspiracy to create the offense of conspiracy if a person agrees, with one or more persons, to commit any Class A, B, or C felonies, or any unclassified felonies that exceed 10 years of imprisonment, and one or more persons do any act in furtherance of the agreement. The offense of conspiracy to commit an offense is a class C felony.

Additionally, this act repeals the provisions barring a person from being charged, convicted, or sentenced for both the offense of conspiracy and the actual offense.

#### DEFINITION OF DANGEROUS FELONY (Section 556.061)

This act adds to the definition of "dangerous felony" the offense of armed criminal action, the offense of conspiracy to commit an offense when the offense is a dangerous felony, and the offense of vehicle hijacking when punished as a Class A felony.

#### OFFENSES NOT ELIGIBLE FOR PROBATION (Section 557.045)

This act provides that any person found guilty of, or pleading guilty to: the offense of second degree murder when the person knowingly causes the death of another person or, with the purpose of causing serious physical injury to another person, causes the death of another person; any dangerous felony involving a deadly weapon; or any dangerous felony where the person has been previously found guilty of a Class A or B felony or a dangerous felony shall not be eligible for probation, suspended imposition or execution of sentence, or a conditional release term, and shall be sentenced to a term of imprisonment.

#### OFFENSE OF VEHICLE HIJACKING (Section 570.027)

This act creates the offense of vehicle hijacking, which is committed when an individual knowingly uses or threatens the use of physical force upon another individual to seize or attempt to seize possession or control of a vehicle. This offense is punished as a class B felony unless one of the aggravating circumstances listed in the act was present during the commission of the offense, in which case it is punished as a Class A felony.

### FISCAL DESCRIPTION (continued)

#### OFFENSE OF ARMED CRIMINAL ACTION (Section 571.015)

Under current law, a person who commits the offense of armed criminal action is subject to a term of imprisonment of not less than 3 years for the first offense, 5 years for the second offense, and 10 years for any subsequent offense, in addition to any punishment for the crime committed by, with, or through the use of a deadly weapon.

This act changes the prison term for this offense to 3 to 15 years for the first offense, 5 to 30 years for the second offense, and at least 10 years for any subsequent offense. These prison terms shall be served in addition to and consecutive to any punishment for the crime committed with the use of a deadly weapon. Additionally, this act provides that if the person convicted of armed criminal action is unlawfully possessing a firearm, the minimum prison term for the first offense is 5 years, the second offense is 10 years, and the third offense is 15 years.

No person convicted for the offense of armed criminal action shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for the minimum period of imprisonment.

#### UNLAWFUL POSSESSION OF A FIREARM (Section 571.070)

Under current law, the offense of unlawful possession of a firearm is a Class D felony. This act increases the penalty for unlawful possession of a firearm by a person convicted of a dangerous felony to a Class C felony.

#### OFFENSE OF UNLAWFUL USE OF UNMANNED AIRCRAFT OVER AN OPEN AIR FACILITY (Section 577.800)

A person commits the offense of unlawful use of unmanned aircraft over an open air facility if he or she:

- Operates an unmanned aircraft within a vertical distance of 400 feet from the ground and within the property line of an open air facility; or
- Uses an unmanned aircraft with the purpose of delivering to a person within an open air facility a gun, knife, weapon, or other dangerous article or a controlled substance.

The act sets forth exceptions to when use of an unmanned aircraft over an open air facility shall not be prohibited.

The offense of unlawful use of an unmanned aircraft over an open air facility is punishable as an infraction unless the person using the unmanned aircraft is:

FISCAL DESCRIPTION (continued)

- Delivering a gun, knife, weapon, or other article that can be used to endanger the life of an offender or correctional center employee, in which case the offense is a class B felony; or
- Delivering a controlled substance, in which case the offense is a class D felony.

CRIMINAL STREET GANGS (Sections 578.419 TO 578.425)

This act establishes the "Missouri Criminal Street Gangs Prevention Act". The act modifies the definition of a "criminal street gang" by defining such an organization to have as one of its motivating, rather than primary, activities the commission of one or more criminal acts. The definition of "pattern of criminal street gang activity" is modified to include "dangerous felony" as one of the offenses that would constitute a pattern.

Currently, any person who actively participates in any criminal street gang with knowledge that its members engage in a pattern of criminal street gang activity and who willfully promotes such criminal conduct shall be punished by one year in the county jail or one to three years of imprisonment in a state correctional facility. This act provides that such a person who actively participates in any criminal street gang that engages in a pattern of criminal conduct shall be guilty of a class B felony.

Further, this act changes the mental state and penalty for any person who is convicted of a felony or misdemeanor which is committed for the benefit of, at the direction of, or in association with, a criminal street gang. This act provides that such action must be with the purpose, rather than specific intent, to promote, further, or assist in any criminal conduct by gang members. The act repeals the applicability of this provision to a misdemeanor.

A person convicted under this act shall serve a term in addition and consecutive to the punishment for the felony conviction a term of two years, unless the felony is committed within one thousand feet of a school then the term shall be three years. Finally, if a person is convicted of a dangerous felony under this act, he or she shall be punished by an additional 5 years.

OFFENSE OF UNLAWFUL USE OF UNMANNED AIRCRAFT OVER A MENTAL HEALTH HOSPITAL (Section 632.460)

A person commits the offense of unlawful use of unmanned aircraft over a mental health hospital if he or she purposely;

- Operates an unmanned aircraft within a vertical distance of 300 feet over the mental health hospital's property line; or

### FISCAL DESCRIPTION (continued)

- Uses an unmanned aircraft to deliver to a person confined in a mental health hospital a gun, knife, weapon, or other dangerous article or a controlled substance.

The act sets forth exceptions to when use of an unmanned aircraft over a mental health hospital shall not be prohibited.

The offense of unlawful use of an unmanned aircraft over a mental health hospital is punishable as an infraction unless the person using the unmanned aircraft is:

- Delivering a gun, knife, weapon, or other article that can be used to endanger the life of an offender or correctional center employee, in which case the offense is a Class B felony;
- Facilitating an escape from confinement, in which case the offense is a Class C felony; or
- Delivering a controlled substance, in which case the offense is a Class D felony.

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 Commerce and Insurance  
Department of Conservation  
Department of Corrections  
Department of Mental Health  
Department of Natural Resources  
Department of Public Safety  
Department of Social Services  
Department of Revenue  
Department of Transportation  
Joint Committee on Administrative Rules  
Missouri Office of Prosecution Services  
Office of State Courts Administrator  
Office of Secretary of State  
State Public Defender's Office  
State Treasurer's Office  
Springfield Police Department

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Bill No. CCS for SS #2 for SCS for HB No. 1450, HB No. 1296, HCS for HB No. 1331, and HCS for HB No. 1898

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SOURCES OF INFORMATION (continued)

Manchester Police Department

Political subdivisions

Grundy County Circuit Clerk & Recorder's Office

Marion County

Wright County Circuit Clerk

St. Louis Metropolitan Sewer District

St. Louis County Police Department

St. Louis County Department of Justice Services



Julie Morff

Director

May 11, 2020

Ross Strobe

Assistant Director

May 11, 2020