

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4199-01
Bill No.: HB 1680
Subject: Firearms; Crimes and Punishment; Weapons
Type: Original
Date: February 25, 2020

Bill Summary: This proposal changes the laws regarding firearm offenses.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2028)
General Revenue	Up to (\$179,825)	Up to (\$295,412)	Up to (\$475,495)	Up to (\$828,079)
Total Estimated Net Effect on General Revenue	Up to (\$179,825)	Up to (\$295,412)	Up to (\$475,495)	Up to (\$828,079)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2028)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2028)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2028)
General Revenue	0 FTE	0 FTE	Up to 1 FTE	Up to 2 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	Up to 1 FTE	Up to 2 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.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2028)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§571.045, 571.050, and 571.063 - Firearm offenses

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the enhanced penalties for Defacing a Firearm, from a 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.

In Fiscal Year 2019, SPD's Trial Division opened no cases under charge code 571.045 or 571.063 and just 9 cases under 571.050 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.

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.

Officials from the **Department of Corrections (DOC)** state HB 1680 raises the punishment from a class A misdemeanor to a class B felony for defacing a firearm. However, possession of a defaced firearm is a class D misdemeanor if the manufacturer's serial number or other identification mark required by law is merely covered or obstructed but still retrievable.

ASSUMPTION (continued)

Based on data provided by the Office of State Courts Administrator (OSCA) in FY 2019, three people were given a sentence for a class A misdemeanor under section 571.045 and 32 people were given a sentence for a class B misdemeanor under section 571.050. For each new class B felony, the Department estimates three people will be sentenced to prison and four to probation. Therefore, we estimate that up to 15 people will be sentenced to prison and 20 people will be sentenced to probation under the proposed legislation. 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.

Not knowing what proportion of relevant sentences in FY 2019 could have been considered as covered or obstructed versus fully defaced, DOC estimates the full impact of all 35 offenders being reclassified as class B felonies. The potential cumulative impact on the Department is estimated to be up to an additional 77 offenders in prison and 114 on field supervision by FY 2029.

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total costs for probation and parole	# to Probation and Parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	15	(\$6,386)	(\$79,825)	0	\$0	20	(\$79,825)
Year 2	30	(\$6,386)	(\$195,412)	0	\$0	40	(\$195,412)
Year 3	45	(\$6,386)	(\$298,980)	1	(\$76,515)	60	(\$375,495)
Year 4	60	(\$6,386)	(\$406,612)	1	(\$77,503)	60	(\$484,115)
Year 5	75	(\$6,386)	(\$518,431)	1	(\$78,507)	60	(\$596,938)
Year 6	77	(\$6,386)	(\$542,901)	1	(\$79,528)	74	(\$622,428)
Year 7	77	(\$6,386)	(\$553,759)	1	(\$80,567)	89	(\$634,326)
Year 8	77	(\$6,386)	(\$564,834)	2	(\$163,245)	104	(\$728,079)
Year 9	77	(\$6,386)	(\$576,131)	2	(\$165,393)	114	(\$741,524)
Year 10	77	(\$6,386)	(\$587,653)	2	(\$167,574)	114	(\$755,228)

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.

ASSUMPTION (continued)

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.

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.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS.

Oversight notes the **Attorney General's Office**, the **Department of Public Safety - Missouri State Highway Patrol**, 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.

FISCAL IMPACT -
State Government

	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2028)
GENERAL REVENUE				
<u>Costs - DOC -</u> Increase in P&P Officers			Up to...	Up to...
Personal Service	\$0	\$0	(\$39,532)	(\$83,096)
Fringe Benefits	\$0	\$0	(\$24,911)	(\$52,363)
Expense and Equipment	<u>\$0</u>	<u>\$0</u>	<u>(\$12,072)</u>	<u>(\$27,786)</u>
<u>Total Costs - DOC</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$76,515)</u>	<u>(\$163,245)</u>
FTE Change - DOC	0 FTE	0 FTE	Up to 1 FTE	Up to 2 FTE
<u>Costs - DOC</u> (§§571.045, 571.050, and 571.063) Increased incarceration costs	Up to (\$79,825)	Up to (\$195,412)	Up to (\$298,980)	Up to (\$564,834)
<u>Costs - SPD</u> (§§571.045, 571.050, and 571.063) Salaries, fringe benefits, and equipment and expense	<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 ON GENERAL REVENUE	<u>Up to (\$179,825)</u>	<u>Up to (\$295,412)</u>	<u>Up to (\$475,495)</u>	<u>Up to (\$828,079)</u>
Estimated Net FTE Change for the General Revenue Fund	0 FTE	0 FTE	Up to 1 FTE	Up to 2 FTE

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2028)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill states that a person commits the offense of defacing a firearm if he or she knowingly alters, defaces, destroys, mars, or removes the manufacturer's serial number, or other identification mark required by law, of any firearm.

A person has an affirmative defense to this offense if the person reported the possession to the police or a government agency prior to arrest; or the firearm was manufactured before any law requiring a serial number or other identification mark existed.

This bill also changes the penalty of this offense from a class A misdemeanor to a B felony. This offense is a class D misdemeanor if the manufacturer's serial number is covered or obstructed but still retrievable.

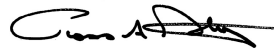
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Public Safety - Missouri State Highway Patrol
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
Springfield Police Department
St. Louis County Police Department
St. Louis County Department of Justice Services



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