

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4321-02
Bill No.: Perfected HB 1873
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: February 19, 2020

Bill Summary: This proposal creates the offense of vehicle hijacking.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2025)
General Revenue	(Could exceed \$115,965)	(Could exceed \$139,082)	(Could exceed \$159,796)	(Could exceed \$203,686)
Total Estimated Net Effect on General Revenue	(Could exceed \$115,965)	(Could exceed \$139,082 1)	(Could exceed \$159,796)	(Could exceed \$203,686)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2025)
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 2025)
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 2025)
Total Estimated Net Effect on FTE	0	0	0	0

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

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2025)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§211.071, 556.061, and 570.027 - Vehicle hijacking

Officials from the **Department of Corrections (DOC)** state 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.

Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	3	6	9	12	15	15	15	15	15	15
Parole						3	6	9	11	11
Probation	4	8	12	12	12	12	12	12	12	12
Impact										
Prison Population	3	6	9	12	15	15	15	15	15	15
Field Population	4	8	12	12	12	15	18	21	23	23
Population Change	7	14	21	24	27	30	33	36	38	38

ASSUMPTION (continued)

Section 211.071.1 requires a court having jurisdiction over a juvenile offender alleged to have committed the offense, hold a certification hearing in order to determine whether the juvenile should be tried as an adult. Presumably, more juvenile certification hearings will result in more juvenile offenders tried and sentenced as adults. The actual impact of section 211.071.1 is difficult to determine as it is unknown how many juveniles will be found guilty and sentenced to a term of adult incarceration for this offense. DOC reflected a cost each year of the additional prisoners in the table below (i.e. \$59,796 in year 3 for 9 prisoners) plus an unknown amount.

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	3	(\$6,386)	(\$15,965)	4	absorbed	\$0	(\$15,965)
Year 2	6	(\$6,386)	(\$39,082)	8	absorbed	\$0	(\$39,082)
Year 3	9	(\$6,386)	(\$59,796)	12	absorbed	\$0	(\$59,796)
Year 4	12	(\$6,386)	(\$81,322)	12	absorbed	\$0	(\$81,322)
Year 5	15	(\$6,386)	(\$103,686)	12	absorbed	\$0	(\$103,686)
Year 6	15	(\$6,386)	(\$105,760)	15	absorbed	\$0	(\$105,760)
Year 7	15	(\$6,386)	(\$107,875)	18	absorbed	\$0	(\$107,875)
Year 8	15	(\$6,386)	(\$110,033)	21	absorbed	\$0	(\$110,033)
Year 9	15	(\$6,386)	(\$112,233)	23	absorbed	\$0	(\$112,233)
Year 10	15	(\$6,386)	(\$114,478)	23	absorbed	\$0	(\$114,478)

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.

ASSUMPTION (continued)

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.

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 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 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. 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.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume 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).

Oversight notes 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.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2025)
GENERAL REVENUE				
<u>Costs - DOC</u> (§§211.071, 556.061, and 570.027) Increased incarceration costs	(\$15,965 to Unknown)	(\$39,082 to Unknown)	(\$59,796 to Unknown)	(\$103,686 to Unknown)
<u>Costs - SPD</u> (§§211.071, 556.061, and 570.027) 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 THE GENERAL REVENUE FUND	<u>(Could exceed \$115,965)</u>	<u>(Could exceed \$139,082)</u>	<u>(Could exceed \$159,796)</u>	<u>(Could exceed \$203,686)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2025)
	<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 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 bill was present during the commission of the offense, in which case it is punished as a class A felony.

FISCAL DESCRIPTION (continued)

Additionally, the definition of dangerous felony is modified to include the offense of vehicle hijacking when punished as a class A felony.

This bill specifies that, beginning January 1, 2021, if a person is charged with the offense of vehicle hijacking and is between the ages of 12 and 18, a mandatory hearing will be conducted to determine whether the case shall proceed in a juvenile court or the offender will be certified as an adult. As of the effective date of the bill and prior to January 1, 2021, if a person is charged with the offense of vehicle hijacking and is between the ages of 12 and 17, a mandatory hearing will be conducted to determine whether the case shall proceed in juvenile court or the offender will be certified as an adult.

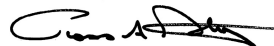
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

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



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