

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4567-02
Bill No.: HCS for HB Nos. 1901 & 1722
Subject: Firearms; Buses; Weapons; Crimes and Punishment
Type: Original
Date: March 16, 2020

Bill Summary: This proposal changes the law regarding firearms.

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 (\$185,147)	Up to (\$308,439)	Up to (\$490,396)	Up to (\$836,373)
Total Estimated Net Effect on General Revenue	Up to (\$185,147)	Up to (\$308,439)	Up to (\$490,396)	Up to (\$836,373)

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 10 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

Officials from the **Department of Corrections (DOC)** state this bill modifies penalties related to weapon offenses.

Sections 571.045 and 571.050 enhances the penalty of defacing a firearm from a class A and class B misdemeanors to a class B felony. Enhancing the penalty from class A and class B misdemeanor that are not supervised, generally, by DOC to a class B felony supervised by DOC, has potential fiscal and operational impacts on the department.

In FY 2019, there were three offenders charged under section 571.045 as a class A misdemeanor offense for defacing a firearm, and there were thirty-two offenders charged under section 571.050 as a class B misdemeanor offense for possessing a defaced firearm.

For each new class B felony, the department 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.

Thus, assuming these 35 offenders will now be charged as class B felony offenders and keeping the same average sentence and probation lengths, there will be 15 new prison admissions and 20 new probation sentences.

The cumulative impact on the department is estimated to be 77 additional offenders in prison and 114 on field supervision by FY 2029 with a net population change of 191 additional offenders.

ASSUMPTION (continued)

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	15	15	15	15	15	15	15	15	15	15
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	20	20	20	20	20	20	20	20	20	20
Change (After Legislation - Current Law)										
Admissions	15	15	15	15	15	15	15	15	15	15
Probations	20	20	20	20	20	20	20	20	20	20
Cumulative Populations										
Prison	15	30	45	60	75	77	77	77	77	77
Parole						14	29	44	54	54
Probation	20	40	60	60	60	60	60	60	60	60
Impact										
Prison Population	15	30	45	60	75	77	77	77	77	77
Field Population	20	40	60	60	60	74	89	104	114	114
Population Change	35	70	105	120	135	150	165	180	191	191

Section 571.063 adds a person who attempts to violate or to induce another to violate the provisions of subdivision (1) of this subsection under the penalty of fraudulent purchase of a firearm.

Penalty of fraudulent purchase of a firearm is a class E felony. Thus, adding persons who attempt to violate or induce another to violate this section, will have an operational and fiscal impact of potentially creating a new nonviolent class E felony.

For each new nonviolent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be two additional offenders in prison and seven on field supervision by FY 2023.

ASSUMPTION (continued)

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	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

The cumulative impact of this legislation will result in approximately 79 new prison admissions and 121 new field population by FY2029 with a net population change of 200 additional offenders.

All other sections have no impact.

	# 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	16	(\$6,386)	(\$85,147)	0	\$0	22	(\$85,147)
Year 2	32	(\$6,386)	(\$208,439)	0	\$0	44	(\$208,439)
Year 3	47	(\$6,386)	(\$312,268)	1	(\$78,128)	67	(\$390,396)
Year 4	62	(\$6,386)	(\$420,166)	1	(\$70,454)	67	(\$490,620)
Year 5	77	(\$6,386)	(\$532,256)	1	(\$71,213)	67	(\$603,469)
Year 6	79	(\$6,386)	(\$557,002)	1	(\$71,983)	81	(\$628,985)
Year 7	79	(\$6,386)	(\$568,142)	1	(\$72,762)	96	(\$640,905)
Year 8	79	(\$6,386)	(\$579,505)	2	(\$156,868)	111	(\$736,373)
Year 9	79	(\$6,386)	(\$591,095)	2	(\$148,696)	121	(\$739,791)
Year 10	79	(\$6,386)	(\$602,917)	2	(\$150,309)	121	(\$753,226)

ASSUMPTION (continued)

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.

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 enhanced penalties for altering or possessing a defaced firearm. The penalties are being increased from a class A misdemeanor to a new 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.

ASSUMPTION (continued)

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.

§§70.441, 571.107, 577.703, and 577.712 - Concealed carry on public transportation systems

In response to similar legislation (SB 700), officials from the **City of Springfield** stated the proposal impedes upon the City's police power and could ultimately lead to increased enforcement costs; the impact is unknown at this time.

In response to similar legislation (SB 700), officials from the **Boone County Sheriff's Department** stated the proposal would not have a direct fiscal impact on their organization.

Oversight notes without elaboration from the City of Springfield and the statements of no impact from the City of Kansas City and the Boone County Sheriff's Department, Oversight will assume the City of Springfield will be able to implement the provisions within the proposal with existing resources.

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

ASSUMPTION (continued)

Bill as a Whole

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

Oversight notes the **Attorney General's Office**, the **Department of Public Safety - Missouri State Highway Patrol**, the **Department of Transportation**, the **Office of State Courts Administrator**, the **City of Kansas City**, the **Springfield Police Department**, the **St. Louis County Department of Justice Services**, 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.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other police and sheriff's departments and the cities of Columbia and St. Louis 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 -</u> <u>State Government</u>	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	(\$26,524)	(\$55,754)
Expense and Equipment	<u>\$0</u>	<u>\$0</u>	<u>(\$12,072)</u>	<u>(\$18,018)</u>
<u>Total Costs - DOC</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$78,128)</u>	<u>(\$156,868)</u>
FTE Change - DOC	0 FTE	0 FTE	Up to 1 FTE	Up to 2 FTE

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2028)
GENERAL REVENUE (continued)				
<u>Costs - DOC</u> (§§571.045, 571.050, and 571.063) Increased incarceration costs	Up to (\$85,147)	Up to (\$208,439)	Up to (\$312,268)	Up to (\$579,505)
<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 (\$185,147)</u>	<u>Up to (\$308,439)</u>	<u>Up to (\$490,396)</u>	<u>Up to (\$836,373)</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.

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.

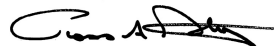
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Public Safety - Missouri State Highway Patrol
Department of Transportation
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
City of Kansas City
City of Springfield
Boone County Sheriff's Department



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