

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4855-01
Bill No.: HB 2142
Subject: Crimes and Punishment; Sexual Offenses; Department of Conservation
Type: Original
Date: February 6, 2020

Bill Summary: This proposal prohibits certain offenders from being 500 feet of any nature or education center controlled by the Missouri Department of Conservation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(Less than \$105,321)	(Less than \$113,027)	(Less than \$126,576)
Total Estimated Net Effect on General Revenue	(Less than \$105,321)	(Less than \$113,027)	(Less than \$126,576)

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

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on FTE	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
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§566.150 - Prohibits certain offenders from being within 500 feet of any nature or education center controlled by the Missouri Department of Conservation

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 previously convicted of certain offenses are charged with the proposed new crime of being within 500 feet of a nature or education center controlled by the Missouri Department of Conservation - a new class E felony for the first offense and a new class D felony for any subsequent violations. 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 22 cases under charge code 566.150 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.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state HB 2142 prohibits certain offenders from being 500 feet of any nature or education center controlled by the Missouri Department of Conservation.

DOC assumes section 568.045, endangering the welfare of a child in the first degree, relates to sex offenders only in this particular legislation.

For each new non-violent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a non-violent 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.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	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

For each new non-violent class D felony, the department estimates three people will be sentenced to prison and five to probation. The average sentence for a non-violent class D felony offense is 5 years, of which 2.8 years will be served in prison with 1.7 years to first release. The remaining 2.2 years will be on parole. Probation sentences will be 3 years.

ASSUMPTION (continued)

Change in prison admissions and probation openings with legislation-Class D Felony (nonviolent)

	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	5	5	5	5	5	5	5	5	5	5
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	5	5	5	5	5	5	5	5	5	5
Cumulative Populations										
Prison	3	6	9	9	9	9	9	9	9	9
Parole			0	3	6	6	6	6	6	6
Probation	5	10	15	15	15	15	15	15	15	15
Impact										
Prison Population	3	6	9	9	9	9	9	9	9	9
Field Population	5	10	15	18	21	21	21	21	21	21
Population Change	8	16	24	27	30	30	30	30	30	30

The cumulative impact is 11 new prison admissions and 22 new offenders in the field with a net population change of 33 offenders by FY 2023.

Cumulative Change in prison admissions and probation openings with legislation

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
First Violation, Felony Class E										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
2nd or subsequent violation, Felony Class D										
Prison Population	3	6	9	9	9	9	9	9	9	9
Field Population	5	10	15	18	21	21	21	21	21	21
Prison Population	4	8	11	11	11	11	11	11	11	11
Field Population	7	14	22	25	28	28	28	28	28	28
Population Change	11	22	33	36	39	39	39	39	39	39

ASSUMPTION (continued)

	# 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	4	(\$6,386)	(\$21,287)	7	absorbed	\$0	(\$21,287)
Year 2	8	(\$6,386)	(\$52,110)	14	absorbed	\$0	(\$52,110)
Year 3	11	(\$6,386)	(\$73,084)	22	absorbed	\$0	(\$73,084)
Year 4	11	(\$6,386)	(\$74,546)	25	absorbed	\$0	(\$74,546)
Year 5	11	(\$6,386)	(\$76,037)	28	absorbed	\$0	(\$76,037)
Year 6	11	(\$6,386)	(\$77,557)	28	absorbed	\$0	(\$77,557)
Year 7	11	(\$6,386)	(\$79,108)	28	absorbed	\$0	(\$79,108)
Year 8	11	(\$6,386)	(\$80,691)	28	absorbed	\$0	(\$80,691)
Year 9	11	(\$6,386)	(\$82,304)	28	absorbed	\$0	(\$82,304)
Year 10	11	(\$6,386)	(\$83,950)	28	absorbed	\$0	(\$83,950)

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.

ASSUMPTION (continued)

Officials from the **Missouri Department of Conservation (MDC)** assume this proposal would not fiscally impact their agency. MDC stated there are eight (8) nature and education centers in the state, including:

- Burr Oak Woods Nature Center (Blue Springs);
- Cape Girardeau Nature Center;
- Anita B. Gorman Discovery Center (Kansas City);
- Powder Valley Nature Center (Kirkwood);
- Runge Nature Center (Jefferson City);
- Springfield Nature Center;
- Twin Pines Conservation Education Center (Winona); and
- Shoal Creek Conservation Education Center (Joplin)

Oversight notes during the past two fiscal years, 55 people have been charged under §566.150.

	E felony	D felony
FY 2019	16	1
FY 2018	29	9
Total	45	10

Oversight assumes adding MDC's nature or education centers would be much more limited and specific than the current locations that certain persons are illegal to be present or loiter within 500 feet of:

- any public park with playground equipment;
- a public swimming pool; or
- any museum for entertaining or educating children under 18.

Therefore, Oversight will assume DOC's estimated number of additional prisoners would be too high. Oversight will assume less than four additional prisoners, at a DOC cost of approximately \$6,386 per year per prisoner.

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

Oversight notes the **Department of Public Safety - Missouri State Highway Patrol**, the **Office of State Courts Administrator**, **Springfield Police Department**, the **St. Louis County 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 organizations. Oversight does not

ASSUMPTION (continued)

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
GENERAL REVENUE FUND			
<u>Costs</u> - SPD (\$566.150) Salaries, fringe benefits, and equipment and expense	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs</u> - DOC (\$566.150) Increase in incarceration costs	<u>(\$5,321)</u>	<u>(\$13,027)</u>	<u>(\$26,576)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Less than \$105,321)</u>	<u>(Less than \$113,027)</u>	<u>(Less than \$126,576)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<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 adds any nature or education center controlled by the Missouri Department of Conservation to the locations registered sexual offenders must stay away from by at least 500 feet.

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 Conservation
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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February 6, 2020



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