

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0593H.03C  
Bill No.: HCS for HB Nos. 291 & 286  
Subject: Crimes and Punishment; Criminal Procedure  
Type: Original  
Date: March 16, 2021

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Bill Summary: This proposal modifies the offense of making a false report.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
General Revenue*	(Could exceed \$45,243)	(Could exceed \$110,756)	(Could exceed \$169,456)	(Could exceed \$349,541)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Could exceed \$45,243)</b>	<b>(Could exceed \$110,756)</b>	<b>(Could exceed \$169,456)</b>	<b>(Could exceed \$349,541)</b>

\*The bill could create claims and damages that could potentially be asserted against the state or other entities (if their employees made false reports). If such claims were successfully pursued, they could result in additional costs to the state or local political subdivisions.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Legal Expense Fund (0692)*	\$0	\$0	\$0	\$0
Tort Victims Compensation Fund (0622)	\$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 to (Unknown)</b>	<b>\$0 to Unknown to (Unknown)</b>	<b>\$0 to Unknown to (Unknown)</b>	<b>\$0 to Unknown to (Unknown)</b>

\*Indicates numbers that net to zero. Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
<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 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
General Revenue	0 FTE	0 FTE	0 FTE	1 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>0 FTE</b>	<b>0 FTE</b>	<b>0 FTE</b>	<b>1 FTE</b>

- ☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2029)
<b>Local Government</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>	<b>\$0 or Unknown to (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §575.080 – Offense of making a false report

Officials from the **Department of Corrections (DOC)** state this bill modifies the offense of making a false report.

Those under the age of 18 will have no impact to DOC. However, the department will use a standard B and C felony response to estimate a fiscal impact for those over the age of 18.

For each new class C felony, the Department estimates four people will be sentenced to prison and six to probation. The average sentence for a class C felony offense 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 on the Department is estimated to be 15 additional offenders in prison and 31 additional offenders on field supervision by FY 2028.

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

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
<b>Change (After Legislation - Current Law)</b>										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	6	6	6	6	6	6	6	6	6	6
<b>Cumulative Populations</b>										
Prison	4	8	12	15	15	15	15	15	15	15
Parole				1	5	9	13	13	13	13
Probation	6	12	18	18	18	18	18	18	18	18
<b>Impact</b>										
Prison Population	4	8	12	15	15	15	15	15	15	15
Field Population	6	12	18	19	23	27	31	31	31	31
<b>Population Change</b>	<b>10</b>	<b>20</b>	<b>30</b>	<b>34</b>	<b>38</b>	<b>42</b>	<b>46</b>	<b>46</b>	<b>46</b>	<b>46</b>

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.

The cumulative impact on the Department is estimated to be 15 additional offenders in prison and 23 additional offenders on field supervision by FY 2030.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
<b>Change (After Legislation - Current Law)</b>										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	4	4	4	4	4	4	4	4	4	4
<b>Cumulative Populations</b>										
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
<b>Impact</b>										
Prison Population	3	6	9	12	15	15	15	15	15	15
Field Population	4	8	12	12	12	15	18	21	23	23
<b>Population Change</b>	<b>7</b>	<b>14</b>	<b>21</b>	<b>24</b>	<b>27</b>	<b>30</b>	<b>33</b>	<b>36</b>	<b>38</b>	<b>38</b>

Thus, the combined cumulative impact is estimated to be 30 additional offenders in prison and 52 additional offenders on field supervision by FY 2029, with a net population change of 82 new offenders.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	7	7	7	7	7	7	7	7	7	7
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	10	10	10	10	10	10	10	10	10	10
<b>Change (After Legislation - Current Law)</b>										
Admissions	7	7	7	7	7	7	7	7	7	7
Probations	10	10	10	10	10	10	10	10	10	10
<b>Cumulative Populations</b>										
Prison	7	14	21	27	30	30	30	30	30	30
Parole				1	5	12	19	22	24	24
Probation	10	20	30	30	30	30	30	30	30	30
<b>Impact</b>										
Prison Population	7	14	21	27	30	30	30	30	30	30
Field Population	10	20	30	31	35	42	49	52	54	54
<b>Population Change</b>	<b>17</b>	<b>34</b>	<b>51</b>	<b>58</b>	<b>65</b>	<b>72</b>	<b>79</b>	<b>82</b>	<b>84</b>	<b>84</b>

	# to prison	Cost per year	Total Costs for <b>prison</b>	Change in probation & parole officers	Total cost for <b>probation and parole</b>	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	7	(\$7,756)	(\$45,243)	0	\$0	10	(\$45,243)
Year 2	14	(\$7,756)	(\$110,756)	0	\$0	20	(\$110,756)
Year 3	21	(\$7,756)	(\$169,456)	0	\$0	30	(\$169,456)
Year 4	27	(\$7,756)	(\$222,230)	0	\$0	31	(\$222,230)
Year 5	30	(\$7,756)	(\$251,860)	0	\$0	35	(\$251,860)
Year 6	30	(\$7,756)	(\$256,898)	0	\$0	42	(\$256,898)
Year 7	30	(\$7,756)	(\$262,035)	0	\$0	49	(\$262,035)
Year 8	30	(\$7,756)	(\$267,276)	1	(\$82,265)	52	(\$349,541)
Year 9	30	(\$7,756)	(\$272,622)	1	(\$73,284)	54	(\$345,906)
Year 10	30	(\$7,756)	(\$278,074)	1	(\$74,080)	54	(\$352,154)

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (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 the DOC average district caseload across the state which is 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 48 probation and parole districts.

The DOC cost of incarceration is \$21.251 per day or an annual cost of \$7,756 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 the proposed legislation, and as a result of excessive caseloads, the **Missouri State Public Defender (SPD)** cannot assume existing staff will be able to provide competent,

effective representation for any new cases where indigent persons are charged with the proposed new crime(s) concerning providing making a false report under Section 575.080 RSMo. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards. While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Missouri State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

**Oversight** assumes the SPD 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 SPD for fiscal note purposes.

Officials from the **Office of Administration – General Services (OA/GS)** state this bill creates a civil action against a person who committed the offense of making a false report. A plaintiff bringing such a claim may recover damages, equitable relief, attorney's fees, and punitive damages in some instances. If such a claim were successfully brought against a state employee for actions arising out of and performed in connection with his or her official duties, any award would be paid out of the state Legal Expense Fund (LEF) pursuant to section 105.711.2(2), RSMo. As this creates a new cause of action, this has the potential to increase claims against the LEF. The amount of the potential costs resulting from this proposal cannot be reasonably estimated as this language creates new legal standards, subject to judicial interpretation, and there is no readily available information that could assist in forming a rational basis for estimating costs. In addition, the number of potential claims, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state Legal Expense Fund, Section 105.711 RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified and individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

In response to a similar proposal from 2021 (HB 286), **Oversight** noted “The State Legal Expense Fund is used for payments in resolution of judgments or claims for damages from injured parties arising out of the actions of state employees, agencies, contracted physicians, and the condition of state property.” *Audit Report No. 2017-098*. According to information from OARM, 20% of the LEF’s funds came from other state funds, on average, from FY 2015 - 2018. Over that same time, the LEF paid out \$18,580,430 per year, on average.

Because this bill creates a new cause of action against state agencies covered by the LEF, **Oversight** will show a net \$0 direct fiscal impact for the LEF, and a \$0 to (unknown) direct fiscal impact to General Revenue and other state funds.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** state the Tort Victims Compensation Fund (TVCF) is the payor of last resort and there needs to be a judgment awarded and statutory requirements must be met in order for the claimant to be entitled to receive benefits from the Fund.

The Division of Workers' Compensation (DWC) doesn't typically receive Claims for Tort Victims Compensation Benefits relating solely to psychological/reputational torts claiming intentional infliction of emotional distress, etc. without other physical injuries. The Claim filed with the DWC must be quantifiable. The DWC receives Claims for personal injury or wrongful death. In CY2019, the DWC received zero Claims for psychological or reputational torts. In CY2020, the DWC received one Claim for non-economic or psychological benefits from the Fund.

Currently, any party receiving a final judgment for punitive damages in a civil case filed notifies the Missouri Attorney General's Office of such award. The state of Missouri has a lien to the extent of fifty percent of the punitive damage award after deducting attorney's fees and expenses. Twenty four percent of the fifty percent of the punitive damages award is deposited into the Fund. The proposed Bill could result in the Fund receiving additional moneys to the extent punitive damages are awarded.

The bill might have a positive impact on the fund; however, the amount of moneys that would be deposited into the fund is unknown.

**Oversight** notes that under §537.675.3, 50% of the punitive damage state judgments, after deducting attorney's fees and expenses, shall go into the Tort Victims' Compensation Fund (0622). Because this proposal tends to increase punitive damages awards, it appears to have a positive direct fiscal impact to the Tort Victims' Compensation Fund.

Information provided by the Attorney General shows that between July, 2014, and December, 2019, the Tort Victims Compensation Fund received \$20,043,083. During that period, average annual payments into the Tort Victims Compensation Fund were \$3,644,197.

Because this is a new cause of action that will tend to increase the amount of punitive damages, it will also tend to increase payments into the TVCF. Oversight cannot estimate a specific increase in funding, and will show a \$0 to Unknown direct fiscal impact to the TVCF.

In response to similar legislation from 2021 (HB 286), officials from the **Ellisville Police Department** assumed this proposal may have significant fiscal impact on police agencies. Adding this charge allows for civil suit and the potential for officers to be required to appear and respond as part of the civil suit, these types of suits have a high potential for being frivolous thus creating a serious drain on officers time and department budgets for overtime.

In response to similar legislation from 2020 (HB 1593), officials at the **Lake St. Louis Police Department** assumed that this could have a tremendous financial impact on law enforcement

pertaining to manpower and staffing as officers would spend excessive amounts of time testifying in civil litigation and court hours. This may cause lack of coverage for public safety and increased costs for additional personnel.

**Oversight** assumes the increase in staff and legal costs will be greater than the revenue received from fines. Therefore, Oversight the impact to local governments will presented a \$0 to (Unknown).

Officials at the **Attorney General's Office**, the **Department of Public Safety – (Missouri Highway Patrol and Office of the Director)**, **Department of Social Services**, the **Missouri Office of Prosecution Services**, and the **Office of State Courts Administrator**, the **City of Claycomo**, the **City of Corder**, the **City of Kansas City**, the **City of O'Fallon**, the **City of Springfield**, the **City of St. Louis**, the **Kansas City Police Department**, and the **St. Louis County Police Department** assume this proposal has no direct fiscal impact on their agencies.

In response to a previous version, officials from the **Crestwood Police Department** assumed the proposal will have no fiscal impact on their organization.

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

**Oversight** notes that violations of section 575.080 could result in fines or penalties. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fine varies widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts.





<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2029)
<b>GENERAL REVENUE FUND</b>				
<u>Costs – DOC</u> (\$575.080) Increase in P&P officers				
Personal service	\$0	\$0	\$0	(\$41,548)
Fringe benefit	\$0	\$0	\$0	(\$26,824)
Equipment and expense	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$13,893)</u>
<u>Total Costs – DOC</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$82,265)</u>
FTE Change – DOC	0 FTE	0 FTE	0 FTE	1 FTE
<u>Costs – DOC</u> Increased incarceration costs	(\$45,243)	(\$110,756)	(\$169,456)	(\$267,276)
<u>Cost Increase – OA</u> (\$575.080) Potential increase in transfer to LEF	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Could exceed \$45,243)</u></b>	<b><u>(Could exceed \$110,756)</u></b>	<b><u>(Could exceed \$169,456)</u></b>	<b><u>(Could exceed \$349,541)</u></b>
Estimated Net FTE Change to the General Revenue Fund	0 FTE	0 FTE	0 FTE	1 FTE

<u>FISCAL IMPACT – State Government (continued)</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2029)
<b>OTHER STATE FUNDS</b>				
<u>Cost Increase – Potential increase in transfer to LEF</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>	<b><u>\$0 to (Unknown)</u></b>
<b>LEGAL EXPENSE FUND (0692)</b>				
<u>Transfer In – Increase in appropriation from General Revenue</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
<u>Cost increase – Increase in LEF payouts</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
<b>ESTIMATED NET EFFECT ON LEGAL EXPENSE FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT – State Government (continued)</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2029)
<b>TORT VICTIMS COMPENSATION FUND (0622)</b>				
Revenue Increase – Various State Agencies – Potential increase from pay outs of punitive damages to TVCF	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
<b>ESTIMATED NET EFFECT ON TORT VICTIMS COMPENSATION FUND</b>	<u><b>\$0 to Unknown</b></u>	<u><b>\$0 to Unknown</b></u>	<u><b>\$0 to Unknown</b></u>	<u><b>\$0 to Unknown</b></u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2029)
<b>LOCAL GOVERNMENT</b>				
Revenue – School districts (\$575.080) Fines from violations	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
Cost increase – Increase in staff and legal costs	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENT</b>	<u><b>\$0 or Unknown to (Unknown)</b></u>	<u><b>\$0 or Unknown to (Unknown)</b></u>	<u><b>\$0 or Unknown to (Unknown)</b></u>	<u><b>\$0 or Unknown to (Unknown)</b></u>

FISCAL IMPACT – Small Business

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

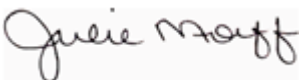
FISCAL DESCRIPTION

This bill specifies that a person may bring a civil action for damages against any person who knowingly causes a police officer to arrive at a location to contact another person for certain reasons, provided in the bill. The bill also specifies what a prevailing plaintiff may recover.

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 Labor and Industrial Relations  
Department of Public Safety  
Department of Social Services  
Missouri Office of Prosecution Services  
Office of Administration  
Office of the State Courts Administrator  
Office of the State Public Defender  
City of Claycomo  
City of Corder  
City of Kansas City  
City of O'Fallon  
City of Springfield  
City of St. Louis  
Crestwood Police Department  
Ellisville Police Department  
Lake St. Louis Police Department  
Kansas City Police Department  
St. Louis County Department of Justice Services



Julie Morff  
Director  
March 16, 2021



Ross Strobe  
Assistant Director  
March 16, 2021