

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1673H.02C
Bill No.: HCS for HB 745
Subject: Probation and Parole; Crimes and Punishment; Corrections, Department of; Courts
Type: Original
Date: March 16, 2021

Bill Summary: This proposal changes the law regarding probation earned compliance credits.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | | |
|--|----------------|----------------|-------------------------|--|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | Fully Implemented (FY 2027) |
| General Revenue* | \$0 | \$0 | \$0 to \$893,100 | \$0 to (\$10,941,568) |
| Total Estimated Net Effect on General Revenue | \$0 | \$0 | \$0 to \$893,100 | \$0 to (\$10,941,568) |

*Oversight notes the fiscal impact is ranged from \$0 (effectively no change from current practice) to potentially an additional 1,046 offenders remaining in prison, depending upon actions of the Department of Corrections and the court system of the now discretionary earned compliance credits.

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | | |
|---|----------------|----------------|----------------|--|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | Fully Implemented (FY 2027) |
| | | | | |
| | | | | |
| Total Estimated Net Effect on <u>Other State</u> Funds | \$0 | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | | |
|--|------------|------------|------------|-----------------------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | Fully Implemented (FY 2027) |
| | | | | |
| | | | | |
| Total Estimated Net Effect on All Federal Funds | \$0 | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | | |
|---|--------------|--------------|----------------------|-----------------------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | Fully Implemented (FY 2027) |
| General Revenue – Department of Corrections | 0 FTE | 0 FTE | 0 to (13) FTE | 0 to 25 FTE |
| | | | | |
| Total Estimated Net Effect on FTE | 0 FTE | 0 FTE | 0 to (13) FTE | 0 to 25 FTE |

☒ 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.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | | |
|--|------------|------------|------------|-----------------------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 | Fully Implemented (FY 2027) |
| | | | | |
| Local Government | \$0 | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

§§217.147, 559.016, 559.036, and 559.115 – Probation and Parole

Officials from the **Department of Corrections (DOC)** state this proposal intends to change the law regarding probation Earned Compliance Credit (ECC).

Parole Discharges

In FY 2020, 2,162 offenders who were not serving a consecutive sentence were discharged from their final parole supervision sentence without earned compliance credit. These offenders served, on average, 6.0 years of a 6.8 year sentence with the department. (Time served can vary from sentence length for non-ECC discharges due to the issuance of jail time credit and Board early discharges.) In FY 2020, 2,458 offenders not serving a consecutive sentence were discharged from their final parole supervision sentence with earned compliance credit after having served, on average, 4.8 years of a 6.3 year sentence with the department.

FY 2020 Parole Discharges

| | Offenders | Average Sentence | Average Time Served |
|------------------------------------|-----------|------------------|---------------------|
| Discharge | 2,162 | 6.8 | 6.0 |
| Earned Compliance Credit Discharge | 2,458 | 6.3 | 4.8 |
| Total | 4,620 | 6.5 | 5.4 |

Parole discharges in FY 2020 without earned compliance credit served, on average, 89% of their sentence with the department. Parole discharges in FY 2020 with earned compliance credit served, on average, 76% of their sentence. The average proportion of sentence served with the department for all discharges from parole in FY 2020 was 83% of their sentence. To estimate the potential impact of the proposed legislation, DOC assumes all future parolees will serve 89% of their sentence with the department.

Probation Discharges

In FY 2020, 1,636 offenders not serving a consecutive sentence were discharged from their final probation supervision sentence without earned compliance credit after having served, on average, 3.3 years of a 6.6 year sentence with the department. In FY 2020, 4,109 offenders not serving a consecutive sentence were discharged from their final probation supervision sentence with earned compliance credit after having served, on average, 2.9 years of a 5.9 year sentence with the department.

FY 2020 Probation Discharges

| | Offenders | Average Sentence | Average Time Served |
|------------------------------------|-----------|------------------|---------------------|
| Discharge | 1,636 | 6.6 | 3.3 |
| Earned Compliance Credit Discharge | 4,109 | 5.9 | 2.9 |
| Total | 5,460 | 6.1 | 3.0 |

Probation discharges in FY 2020 without earned compliance credit served, on average, 50% of their sentence. Probation discharges in FY 2020 with earned compliance credit served, on average, 49% of their sentence. The average proportion of sentence served with the department for all discharges from probation was 49% of their sentence. To estimate the potential impact of the proposed legislation, DOC assumes all new probation cases will serve 50% of their sentence with the department.

Estimate of Future Impact

In FY 2020, 5,540 offenders were released for the first time from prison to parole supervision that was not lifetime supervision on sentences that would otherwise be eligible for early discharge under ECC. The average sentence length for these offenders was 6.2 years; and, they had served, on average, 2.6 years, or 42% of their sentence term, in prison prior to first release. This is the proportion of sentence term DOC uses to estimate time to first release of new admissions.

In FY 2020, there were 3,486 new court commitments to prison with no sentences that required lifetime supervision and either a most serious sentence that was eligible for ECC or a sentence eligible for ECC that was designated to be served consecutive to other sentences. The average length of these sentences was 6.7 years.

In FY 2020, 14,528 offenders were assigned to the department as new probation cases. Of those new cases, 13,531 did not have a class A felony sentence or a class B felony sentence (which would make them eligible for early discharge under the proposed legislation). The average sentence length for new probation cases with sentences eligible for consideration for early discharge was 5.2 years. To estimate the maximum potential impact of this proposal, DOC assumes these offenders would serve 50% of their sentence with the department instead of the 49% that probation cases discharged with earned compliance credit serve.

The estimated cumulative impact of the proposed legislation is an additional 1,046 offenders in prison (due to an increased likelihood of revocation of offenders serving longer periods under parole supervision) and 1,287 additional offenders under field supervision by FY 2027. This legislation would still allow for the discretionary granting of jail time credit and still allows for discretionary parole. Therefore, the projected impact will be \$0 to \$10,941,568.

Change in prison admissions and probation openings with legislation

| | FY2022 | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 | FY2028 | FY2029 | FY2030 | FY2031 |
|---|--------|--------|-------------|-------------|-------------|--------------|--------------|--------------|--------------|--------------|
| New Admissions | | | | | | | | | | |
| Current Law | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 |
| After Legislation | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 | 3,486 |
| Probation | | | | | | | | | | |
| Current Law | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 |
| After Legislation | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 | 13,531 |
| Change (After Legislation - Current Law) | | | | | | | | | | |
| Admissions | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Probations | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Cumulative Populations | | | | | | | | | | |
| Prison | | | | 1,046 | 1,046 | 1,046 | 1,046 | 1,046 | 1,046 | 1,046 |
| Parole | | | | -1,046 | -1,046 | 1,991 | 1,991 | 1,991 | 1,991 | 1,991 |
| Probation | | | -704 | -704 | -704 | -704 | -704 | -704 | -704 | -704 |
| Impact | | | | | | | | | | |
| Prison Population | | | | 1,046 | 1,046 | 1,046 | 1,046 | 1,046 | 1,046 | 1,046 |
| Field Population | | | -704 | -1,749 | -1,749 | 1,287 | 1,287 | 1,287 | 1,287 | 1,287 |
| Population Change | | | -704 | -704 | -704 | 2,333 | 2,333 | 2,333 | 2,333 | 2,333 |

| | # to prison | Cost per year | Total Costs for prison | Change in probation & parole officers | Total savings or cost for probation and parole | # to probation & parole | Grand Total - Prison and Probation (includes 2% inflation) |
|---------|----------------|------------------|---------------------------|---|--|-------------------------------|--|
| Year 1 | 0 | (\$7,756) | \$0 | 0 | \$0 | 0 | \$0 |
| Year 2 | 0 | (\$7,756) | \$0 | 0 | \$0 | 0 | \$0 |
| Year 3 | 0 | (\$7,756) | \$0 | (13) | \$893,100 | (704) | \$893,100 |
| Year 4 | 1,046 | (\$7,756) | (\$8,609,343) | (34) | \$2,361,001 | (1,749) | (\$6,248,342) |
| Year 5 | 1,046 | (\$7,756) | (\$8,781,530) | (34) | \$2,386,505 | (1,749) | (\$6,395,025) |
| Year 6 | 1,046 | (\$7,756) | (\$8,957,160) | 25 | (\$1,984,408) | 1,287 | (\$10,941,568) |
| Year 7 | 1,046 | (\$7,756) | (\$9,136,303) | 25 | (\$1,792,992) | 1,287 | (\$10,929,295) |
| Year 8 | 1,046 | (\$7,756) | (\$9,319,030) | 25 | (\$1,812,420) | 1,287 | (\$11,131,450) |
| Year 9 | 1,046 | (\$7,756) | (\$9,505,410) | 25 | (\$1,832,108) | 1,287 | (\$11,337,518) |
| Year 10 | 1,046 | (\$7,756) | (\$9,695,518) | 25 | (\$1,851,993) | 1,287 | (\$11,547,511) |

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections 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.

Officials from the **Missouri Office of Prosecution Services** assume the proposal will have no fiscal impact on their organization.

Officials from the **Office of State Courts Administrator (OSCA)** state there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

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

| <u>FISCAL IMPACT – State Government</u> | FY 2022 (10 Mo.) | FY 2023 | FY 2024 | Fully Implemented (FY 2027) |
|---|---------------------|-------------------|------------------------------------|---|
| | | | | |
| GENERAL REVENUE FUND | | | | |
| | | | | |
| <u>Savings or Cost – DOC</u> (§§217.147, 559.016, 559.036, and 559.115) Change in P&P officers | | | \$0 to.... | \$0 to.... |
| Personal service | \$0 | \$0 | \$513,916 | (\$1,018,225) |
| Fringe benefit | \$0 | \$0 | \$331,787 | (\$657,377) |
| Expense and equipment | \$0 | \$0 | \$47,397 | (\$308,806) |
| <u>Total savings/cost - DOC</u> | <u>\$0</u> | <u>\$0</u> | <u>\$893,100</u> | <u>(\$1,984,408)</u> |
| FTE Change – DOC | 0 FTE | 0 FTE | (13) FTE | 25 FTE |
| | | | | |
| <u>Costs – DOC Increased incarceration costs</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0 to (\$8,957,160)</u> |
| | | | | |
| ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND | <u>\$0</u> | <u>\$0</u> | <u>\$0 to \$893,100</u> | <u>\$0 to (\$10,941,568)</u> |
| | | | | |
| Estimated Net FTE Change for the General Revenue Fund | 0 FTE | 0 FTE | 0 to (13) FTE | 0 to 25 FTE |

| <u>FISCAL IMPACT – Local Government</u> | FY 2022 (10 Mo.) | FY 2023 | FY 2024 | Fully Implemented (FY 2027) |
|---|---------------------|------------|------------|-----------------------------------|
| | | | | |
| | <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

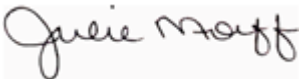
This bill authorizes the Division of Probation and Parole within the Department of Corrections to discharge specified offenders who have served at least 24 months of a probation term, who are compliant with supervision ordered by the court, who have paid restitution owed in full, and who are not on probation for a class A or B felony or subject to lifetime supervision.

Notice of proposed earned discharge shall be filed and provided to the prosecuting or circuit attorney. The prosecuting or circuit attorney may request a hearing within 30 days of filing to oppose discharge. If a hearing is requested, the court shall hold it and issue an order no later than 60 days from filing. If a hearing is not requested, then the court shall order discharge within 60 days of filing, but no earlier than 30 days after the filing of the notification of earned discharge from probation.

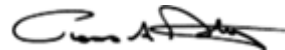
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Missouri Office of Prosecution Services
Office of the State Courts Administrator



Julie Morff
Director
March 16, 2021



Ross Strobe
Assistant Director
March 16, 2021