

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1902H.02I
Bill No.: HB 876
Subject: Law Enforcement Officers and Agencies; Crimes and Punishment; Criminal Procedure
Type: Original
Date: February 12, 2021

Bill Summary: This proposal modifies provisions relating to law enforcement.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
General Revenue	(\$54,546)	(\$84,934)	(\$110,538)	(Could exceed \$163,844)
Total Estimated Net Effect on General Revenue	(\$54,546)	(\$84,934)	(\$110,538)	(Could exceed \$163,844)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains NumberOfPages pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
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 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
General Revenue – Attorney General	0.50 FTE	0.50 FTE	0.50 FTE	0.50 FTE
Total Estimated Net Effect on FTE	0.50 FTE	0.50 FTE	0.50 FTE	0.50 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 2026)
Local Government	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§566.145 - Sexual conduct in the course of public safety

Officials from the **Department of Corrections (DOC)** state this section does not change existing legislation in a way that will likely impact department operations.

The provisions of section 566.145 have an emergency clause.

§590.651 – Data collection on the use of chokeholds

Officials from the **Attorney General’s Office (AGO)** state §590.651 would require the AGO to establish and maintain a database to track the use of chokeholds by Missouri law enforcement agencies. The AGO expects to require half (0.50) of an Information Technology Specialist position to build and maintain this database. Work related to the preparation of a report on the contents of the database could be absorbed by existing resources or partially handled by the Information Technology Specialist.

Oversight assumes 0.50 FTE would not be provided fringe benefits and the state would only pay Social Security and Medicare benefits of 7.65 percent. In addition, Oversight assumes the AGO would not need additional rental space for 0.50 FTE.

§590.195 – Licensure status of officers making arrests

Oversight notes that violations of §590.195 could result in a fine of \$1,000 each day the agency knowingly commissions a peace officer in violation of this chapter. 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.

§§590.654 and 590.655 – Chokeholds

Officials from the **Department of Corrections (DOC)** state §590.654 creates a new class A felony. Given the creation of a completely new class A felony is very rare, the DOC does not have a sufficient historical record upon which to base an estimate of the operational impact of creating such an offense. Therefore, the DOC assumes it will have minimal to no impact on the department.

Section 590.655 add a new class B felony when any officer uses a chokehold and causes death. 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 DOC is estimated to be 15 additional offenders in prison and 12 additional offenders on field supervision by FY 2026.

	# 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 2% inflation)
Year 1	3	(\$7,756)	(\$19,390)	4	absorbed	\$0	(\$19,390)
Year 2	6	(\$7,756)	(\$47,467)	8	absorbed	\$0	(\$47,467)
Year 3	9	(\$7,756)	(\$72,624)	12	absorbed	\$0	(\$72,624)
Year 4	12	(\$7,756)	(\$98,769)	12	absorbed	\$0	(\$98,769)
Year 5	15	(\$7,756)	(\$125,930)	12	absorbed	\$0	(\$125,930)
Year 6	15	(\$7,756)	(\$128,449)	15	absorbed	\$0	(\$128,449)
Year 7	15	(\$7,756)	(\$131,018)	18	absorbed	\$0	(\$131,018)
Year 8	15	(\$7,756)	(\$133,638)	21	absorbed	\$0	(\$133,638)
Year 9	15	(\$7,756)	(\$136,311)	23	absorbed	\$0	(\$136,311)
Year 10	15	(\$7,756)	(\$139,037)	23	absorbed	\$0	(\$139,037)

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.

Bill as a whole

Officials from the **Office of Administration (OA), Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if similar bills pass resulting in more cases, there could be a fiscal impact.

Officials from the **Department of Natural Resources, the Department of Public Safety – (Capitol Police, Missouri Highway Patrol, and the Office of the Director), the Department of Social Services, the Missouri Department of Conservation, the Missouri Office of Prosecution Services, the Office of the State Courts Administrator, the Office of the State Public Defender, the Boone County Sheriff's Department, the Crestwood Police Department, the Kansas City Police Department, and the St. Joseph Police Department** each assume the proposal will have no 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.

Officials from the **St. Louis County Police Department** state the proposed legislation would have a fiscal impact on the St. Louis County Police Department. If passed, the Department would be required to update policy and conduct training to inform officers of the changes in law.

Policy creation and updating would require 8 hours of policy research and 4 hours of policy authoring. The average hourly wage of the policy development position is \$46.69. The total cost of policy development is approximately \$560. The training development would require 8 hours at the same hourly wage of \$46.69. The total cost of training development is approximately \$374.

All 960 commissioned officers would be required to attend at least four hours of training. The average rate of a police officer is \$46.69. The total cost of attending training is approximately \$179,290. This cost does not include covering shifts for officers at the training which will likely result in required overtime. Therefore, the total estimated cost of this legislation could exceed \$180,224 (\$560 + \$374 + \$179,290).

Oversight notes the fiscal impact for the St. Louis County Police Department. Oversight is unable to project a statewide cost; however, Oversight assumes some annual training of officers is conducted regardless of this bill, and this change could be incorporated into that training.

Oversight will reflect a potential \$0 or (Unknown) cost to local police and sheriffs' departments from this proposal to update policies and conduct training.

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.

Officials from the **Department of Labor and Industrial Relations** and the **Office of Administration** did not respond to **Oversight's** request for fiscal impact for this proposal.

<u>FISCAL IMPACT – State Government</u>	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
GENERAL REVENUE FUND				
<u>Costs – AGO (\$590.651)</u>				Could exceed...
Personal services	(\$25,000)	(\$30,300)	(\$30,603)	(\$30,603)
Fringe benefits	(\$1,913)	(\$2,318)	(\$2,341)	(\$2,341)
Expense and equipment	(\$8,243)	(\$4,849)	(\$4,970)	(\$4,970)
<u>Total costs – AGO</u>	<u>(\$35,156)</u>	<u>(\$37,467)</u>	<u>(\$37,914)</u>	<u>(\$37,914)</u>
FTE Change – AGO	0.50 FTE	0.50 FTE	0.50 FTE	0.50 FTE
<u>Costs – DOC (\$590.655) Increased incarceration costs</u>				
	(\$19,390)	(\$47,467)	(\$72,624)	(\$125,930)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$54,546)</u>	<u>(\$84,934)</u>	<u>(\$110,538)</u>	<u>(Could exceed \$163,844)</u>
Estimated Net FTE Change for the General Revenue Fund	0.50 FTE	0.50 FTE	0.50 FTE	0.50 FTE

<u>FISCAL IMPACT</u> <u>– Local</u> <u>Government</u>	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
LOCAL GOVERNMENT – POLICE AND SHERIFF’S DEPARTMENTS				
<u>Revenue</u> – School districts (\$590.195) Fines from violations	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Costs</u> – Police and Sheriff’s Department (Potential increased cost to train and develop policy)	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS – POLICE AND SHERIFF’S DEPARTMENTS	<u>\$0 or Unknown</u> <u>to (Unknown)</u>	<u>\$0 or Unknown</u> <u>to (Unknown)</u>	<u>\$0 or Unknown</u> <u>to (Unknown)</u>	<u>\$0 or Unknown</u> <u>to (Unknown)</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

CHOKEHOLDS

This bill prohibits the use of chokeholds by peace officers and security guards except when such tactics are justified as deadly force under Chapter 563, RSMo. All law enforcement agencies shall prohibit chokeholds unless deadly force is lawful, and their use as deadly force will be reported to the Attorney General and available for publication. Carotid restraints may be used to effectuate arrests, but these methods must be taught and distinguished from chokeholds, which prevent or hinder breathing.

The bill authorizes disciplinary actions under Section 590.080 for peace officers who use a chokehold when deadly force is not lawful and the chokehold results in serious injury or death, regardless of whether the officer is criminally prosecuted. Reporting requirements for officers subject to discipline for using chokeholds are specified in the bill.

Any peace officer or security guard who causes death using a chokehold and is not justified in using deadly force shall be guilty of a class A felony and may be referred for disciplinary action under Section 590.080. The illegitimate use of a chokehold that causes serious injury and is not justified by the use of physical force defenses under Chapter 563 shall be guilty of the offense of aggravated strangulation, which shall be a class B felony.

The bill adds peace officer training certification requirements, which shall include de-escalation training and the use of body-worn cameras. Additionally, the basic training of every peace officer shall prohibit the use of maneuvers that restrict blood or oxygen flow to the brain, or prevents or hinders breathing or reduces the intake of air, such as knee-holds, chokeholds, or similar acts of applying force or pressure to the neck, unless deadly force is necessary and lawful.

LICENSURE STATUS OF OFFICERS MAKING ARRESTS

The bill specifies that a law enforcement agency shall be subject to a fine of \$1,000 each day the agency commissions a peace officer in violation of the law prohibiting law enforcement agencies from commissioning officers who do not hold a valid peace officer license.

Section 556.145 has an emergency clause.

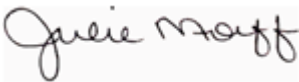
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

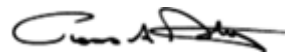
Attorney General's Office
Department of Corrections
Department of Natural Resources
Department of Public Safety
Department of Social Services
Missouri Department of Conservation
Missouri Office of Prosecution Services
Office of Administration –
 Administrative Hearing Commission
Office of the State Courts Administrator
Office of the State Public Defender
Boone County Sheriff's Department
Crestwood Police Department
Kansas City Police Department
St. Louis County Police Department
St. Joseph Police Department

NOT RESPONDING

Department of Labor and Industrial Relations
Office of Administration



Julie Morff
Director
February 12, 2021



Ross Strobe
Assistant Director
February 12, 2021