

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2043H.01I
Bill No.: HB 1069
Subject: Crimes and Punishment; General Assembly
Type: Original
Date: March 9, 2021

Bill Summary: This proposal creates criminal penalties for certain offenses committed against a body of the General Assembly.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue*	\$0 or up to (\$58,170)	\$0 or up to (\$142,400)	\$0 or less than (\$250,000)
Total Estimated Net Effect on General Revenue	\$0 or up to (\$58,170)	\$0 or up to (\$142,400)	\$0 or less than (\$250,000)

*Due to the narrow scope of the new crimes, Oversight has ranged the fiscal impact from \$0 (no new convictions and prison sentences) to DOC's estimates. Oversight assumes the fiscal impact would not reach the \$250,000 threshold.

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

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	0 FTE	0 FTE	1 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	1 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
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§21.403, 21.405, 575.040, 575.050, 575.160, 575.270, 575.280, 575.330, and 576.030 –
 Offenses against a body of the General Assembly

Officials from the **Department of Corrections (DOC)** state this bill intends to create criminal penalties for offenses committed against a body of the General Assembly. It creates 2 class D felonies, 3 class E felonies, 2 class A misdemeanors, and reclassifies a class B misdemeanor to a class A misdemeanor.

For the new nonviolent class D felonies created in sections 575.040 and 575.280, the Department estimates six people will be sentenced to prison and ten to probation. The average sentence for a nonviolent 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.

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

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	10	10	10	10	10	10	10	10	10	10
Change (After Legislation - Current Law)										
Admissions	6	6	6	6	6	6	6	6	6	6
Probations	10	10	10	10	10	10	10	10	10	10
Cumulative Populations										
Prison	6	12	17	17	17	17	17	17	17	17
Parole			1	7	13	13	13	13	13	13
Probation	10	20	30	30	30	30	30	30	30	30
Impact										
Prison Population	6	12	17	17	17	17	17	17	17	17
Field Population	10	20	31	37	43	43	43	43	43	43
Population Change	16	32	48	54	60	60	60	60	60	60

For the new nonviolent class E felonies created in sections 575.050, 575.330 and 576.030, the Department estimates three people will be sentenced to prison and six 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.

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

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
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	6	6	6	6	6	6	6	6	6	6
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
Prison	3	6	6	6	6	6	6	6	6	6
Parole			3	4	4	4	4	4	4	4
Probation	6	12	18	18	18	18	18	18	18	18
Impact										
Prison Population	3	6	6	6	6	6	6	6	6	6
Field Population	6	12	21	22	22	22	22	22	22	22
Population Change	9	18	27	28	28	28	28	28	28	28

The combined cumulative impact on the department is estimated to be 23 additional offenders in prison and 52 on field supervision by FY 2024.

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	9	(\$7,756)	(\$58,170)	0	\$0	16	(\$58,170)
Year 2	18	(\$7,756)	(\$142,400)	0	\$0	32	(\$142,400)
Year 3	23	(\$7,756)	(\$185,595)	1	(\$77,126)	52	(\$262,721)
Year 4	23	(\$7,756)	(\$189,307)	1	(\$69,441)	59	(\$258,748)
Year 5	23	(\$7,756)	(\$193,093)	1	(\$70,191)	65	(\$263,284)
Year 6	23	(\$7,756)	(\$196,955)	1	(\$70,950)	65	(\$267,905)
Year 7	23	(\$7,756)	(\$200,894)	1	(\$71,719)	65	(\$272,613)
Year 8	23	(\$7,756)	(\$204,912)	1	(\$72,497)	65	(\$277,409)
Year 9	23	(\$7,756)	(\$209,010)	1	(\$73,284)	65	(\$282,294)
Year 10	23	(\$7,756)	(\$213,190)	1	(\$74,080)	65	(\$287,270)

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 assumes, due to the narrow scope of the new crimes, the actual fiscal impact (from an increase in prisoners) would not be that high and could be as low as zero. Therefore, Oversight will reflect a fiscal impact of a range from \$0 (no additional prisoners) to DOC's numbers.

Officials from the **Attorney General's Office**, the **Department of Public Safety - Missouri Highway Patrol**, the **Missouri House of Representatives**, the **Missouri Office of Prosecution Services**, the **Missouri Senate**, the **Office of the State Courts Administrator**, and the **Office of the State Public Defender** 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.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Costs – DOC</u> (\$575.040, 575.050, 575.280, 575.330, 576.030) Increase in P&P officers			\$0 or....
Personal services	\$0	\$0	(\$39,532)
Fringe benefits	\$0	\$0	(\$25,522)
Equipment and expense	\$0	\$0	(\$12,072)
<u>Total Costs – DOC</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$77,126)</u>
FTE Change – DOC	0 FTE	0 FTE	1 FTE
<u>Costs – DOC</u> Increased incarceration costs	<u>\$0 or up to (\$58,170)</u>	<u>\$0 or up to (\$142,400)</u>	<u>\$0 or less than (\$172,874)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 or up to (\$58,170)</u>	<u>\$0 or up to (\$142,400)</u>	<u>\$0 or less than (\$250,000)</u>
Estimated Net FTE Change to the General Revenue Fund	0 FTE	0 FTE	0 or 1 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<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 specifies that, when a person is subpoenaed to testify or provide information at a proceeding before a body of the General Assembly, a court must issue, upon request from the President Pro Tem or the Speaker of the body that subpoenaed the person, an order requiring the person to testify or provide information if the person refuses to do so on the basis of the person's privilege against self-incrimination. Before issuing such an order, a court must find that the request for the order has been approved by a vote of a three-fifths majority of the members of the body requesting the order. If a witness refuses, on the basis of the privilege against self-incrimination, to testify or provide information and the person presiding over the proceeding informs the witness that an order requiring the testimony or production of information was issued, the witness must not refuse to comply with the order on the basis of the asserted privilege. However, no testimony or information compelled under the order may be used against the witness in any criminal proceeding other than perjury, giving a false statement, or otherwise failing to comply with the order.

If a witness summoned by a body of the General Assembly willfully fails to appear, refuses to answer any pertinent questions, or fails to produce required documents, a statement of facts regarding such failure may be reported to and filed with the President Pro Tem of the Senate or the Speaker of the House. Either the President Pro Tem or the Speaker may certify the statement of facts to the prosecuting or other attorney having jurisdiction to prosecute. The Attorney General will have concurrent original jurisdiction to commence a criminal action throughout the state.

Upon request by the President Pro Tem or the Speaker of the originating body, the court must, within 15 days of the request, appoint independent counsel, who will have jurisdiction to prosecute under Section 575.330, RSMo. If independent counsel is appointed, such independent counsel will have sole jurisdiction to prosecute under such section.

The bill also specifies that:

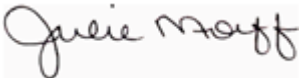
- (1) The offense of perjury is a class D felony if it is committed in any proceeding before a body of the General Assembly;
- (2) The offense of making a false affidavit is a class A misdemeanor when it is done in any proceeding before a body of the General Assembly;
- (3) The offense of tampering with a witness or victim is a class E felony when the witness is a witness in a proceeding before a body of the General Assembly;
- (4) The offense of acceding to corruption when the person is a witness or prospective witness in a proceeding before a body of the General Assembly is a class D felony;
- (5) A person commits the offense of obstructing government operations if he or she purposely obstructs, impairs, hinders, or perverts the performance of a governmental function by the use or threat of harm, intimidation, or coercion. The offense of obstructing government operations is a class A misdemeanor.

However, if committed against a body of the General Assembly, it is a class E felony.

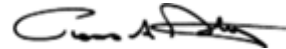
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Public Safety
Missouri House of Representatives
Missouri Office of Prosecution Services
Missouri Senate
Office of the State Courts Administrator
Office of the State Public Defender



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