

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0693H.02C  
Bill No.: HCS for HB Nos. 494 & 498  
Subject: Crimes and Punishment; Criminal Procedure  
Type: Original  
Date: April 14, 2023

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Bill Summary: This proposal modifies provisions relating to sexually oriented businesses.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	(\$7,916)	(\$19,378)	(\$19,766)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$7,916)</b>	<b>(\$19,378)</b>	<b>(\$19,766)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</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>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §573.520 – Adult cabaret

Officials from the **Department of Corrections (DOC)** state this proposal creates the offenses of engaging in an adult cabaret performance, a class A misdemeanor and engaging in an adult cabaret performance-2<sup>nd</sup> or subsequent offense, a class E felony.

As these are new crimes, there is little direct data on which to base an estimate and, as such, the department estimates an impact comparable to the creation of a new class E felony. Since misdemeanors fall outside of the purview of DOC, a class A misdemeanor does not have any impact for DOC.

For each new nonviolent class E felony, the department estimates one person could be sentenced to prison and two 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.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2026.

	# 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	1	(\$9,499)	(\$7,916)	0	\$0	2	(\$7,916)
Year 2	2	(\$9,499)	(\$19,378)	0	\$0	4	(\$19,378)
Year 3	2	(\$9,499)	(\$19,766)	0	\$0	7	(\$19,766)
Year 4	2	(\$9,499)	(\$20,161)	0	\$0	7	(\$20,161)
Year 5	2	(\$9,499)	(\$20,564)	0	\$0	7	(\$20,564)
Year 6	2	(\$9,499)	(\$20,975)	0	\$0	7	(\$20,975)
Year 7	2	(\$9,499)	(\$21,395)	0	\$0	7	(\$21,395)
Year 8	2	(\$9,499)	(\$21,823)	0	\$0	7	(\$21,823)
Year 9	2	(\$9,499)	(\$22,259)	0	\$0	7	(\$22,259)
Year 10	2	(\$9,499)	(\$22,704)	0	\$0	7	(\$22,704)

If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$26.024 per day or an annual cost of \$9,499 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$87.46 per day or an annual cost of \$31,921 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases 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.

**Oversight** does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's estimated impact for fiscal note purposes.

Officials from the **Office of the State Public Defender (SPD)** state the proposed legislation creates a new offense under Section 573.520 which could result in additional cases eligible for SPD representation. The fiscal impact is unknown as the number of additional cases is unknown.

**Oversight** notes in FY22 the SPD was appropriated moneys for 53 additional FTE. Oversight assumes this proposal will create a minimal number of new cases and that the SPD can absorb the additional caseload required by this proposal with current staff and resources. Therefore, Oversight will reflect no fiscal impact to the SPD for fiscal note purposes. However, if multiple bills pass which require additional staffing and duties, the SPD may request funding through the appropriation process.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The enactment of new crimes (226.531.4 and 573.520) creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

#### Bill as a Whole

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain

amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Attorney General's Office**, the **Department of Health and Senior Services**, the **Department of Public Safety - Missouri Highway Patrol**, the **Missouri Department of Transportation**, the **City of Kansas City**, the **City of O'Fallon**, the **City of Springfield**, the **Branson Police Department**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, and the **Phelps County Sheriff's Department** assume the proposal will have no fiscal impact on their organization.

In response to a previous version, officials from the **Office of the State Courts Administrator** and the **City of Jefferson City** assumed the proposal will have no fiscal impact on their respective organizations.

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, other cities, counties and local law enforcement were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>GENERAL REVENUE</b>			
<u>Cost – DOC (\$573.520) Increased incarceration costs p. 3-4</u>	<u>(\$7,916)</u>	<u>(\$19,378)</u>	<u>(\$19,766)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(\$7,916)</u></b>	<b><u>(\$19,378)</u></b>	<b><u>(\$19,766)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT – Small Business

Certain sexually-oriented small businesses could be impacted as a result of this proposal.

FISCAL DESCRIPTION

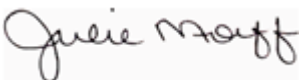
ADULT CABERET PERFORMANCES (Section 573.520)

This bill defines "adult cabaret performance" and creates the offense of engaging in an adult cabaret performance, which is a class A misdemeanor for a first offense and a class E felony for a second or subsequent offense. A person commits the offense of engaging in an adult cabaret performance if the performance is on public property or is in a location where the performance could be viewed by a person who is not an adult.

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 Health and Senior Services  
Department of Public Safety - Missouri Highway Patrol  
Missouri Department of Transportation  
Missouri Office of Prosecution Services  
Office of the Secretary of State  
Office of the State Courts Administrator  
Office of the State Public Defender  
City of Jefferson City  
City of Kansas City  
City of O'Fallon  
City of Springfield  
Branson Police Department  
Kansas City Police Department  
St. Joseph Police Department  
St. Louis County Police Department  
Phelps County Sheriff's Department



Julie Morff  
Director  
April 14, 2023



Ross Strobe  
Assistant Director  
April 14, 2023