

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1019H.01P
 Bill No.: Perfected HB 196
 Subject: Victims of Crime; Crimes and Punishment
 Type: Original
 Date: March 30, 2023

Bill Summary: This proposal contains provisions relating to the Department of Corrections.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
General Revenue*	\$0 or Unknown	\$0 or Unknown	\$0 to (\$13,892,629)	\$0 to (\$24,195,618)
Total Estimated Net Effect on General Revenue	\$0 or Unknown	\$0 or Unknown	\$0 to (\$13,892,629)	\$0 to (\$24,195,618)

*Officials from the Department of Corrections (DOC) state this legislation would still allow for the discretionary granting of jail time credit and still allows for discretionary parole. Therefore, the DOC assumed a potential cost of \$0 to (\$24,195,618) as the DOC is unable to predict the Probation and Parole Board's decisions.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
Missouri Interstate Compact Act	Less than \$252,438	Less than \$302,925	Less than \$302,925	Less than \$302,925
Total Estimated Net Effect on Other State Funds	Less than \$252,438	Less than \$302,925	Less than \$302,925	Less than \$302,925

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
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 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
General Revenue	0 FTE	0 FTE	0 to 143 FTE	0 to 166 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	0 to 143 FTE	0 to 166 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 2024	FY 2025	FY 2026	Fully Implemented (FY 2030)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§595.209 – Victim or witness notification

Officials from the **Department of Public Safety - Office of the Director** assume 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.

House Amendment (HA) 1

Oversight assumes House Amendment 1 is a title change and will have no fiscal impact on state or local governments.

House Amendment (HA) 2

§559.125 – Privileged information

Officials from the **Department of Corrections (DOC)** state this modifies provisions relating to certain privileged information. DOC's original response to this section was an unknown cost; however, after further review, it is determined that section 559.125 will have no impact on the DOC.

House Amendment (HA) 3

Repeals §217.785 - Missouri Postconviction Drug Treatment Program

DOC states repealing §217.785 will have no financial impact on the department as the court still retains the authority to require an offender to participate in a non-institutional drug treatment program under §559.021 or may sentence an offender to a 120-day sentencing program under §559.036 or §559.115.

In response to similar legislation from 2023 (HB 119), officials from the **Office of the State Courts Administrator** 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 for this agency.

House Amendment (HA) 4

Repeals §217.810 and implements §§217.035, 217.650, 217.670, 217.710, 217.720, 548.241, 589.564, and 589.565 – Interstate compact

DOC states this proposal repeals the Interstate Compact for supervision of parolees and probationers and modifies the Interstate Compact for adult offender supervision.

Section 589.565 introduces a fee for application for an offender to request an interstate transfer and it delineates certain funding to be used in activities involving offenders covered under the Interstate Compact for Adult Offender Supervision.

In 2022, Missouri submitted 2,884 outgoing transfers for Interstate Compact. This figure will be used to estimate the number of transfers in all subsequent years. Approximately 40% of transfers or 1,153 offenders (2,884 x .40) are projected to be indigent and would receive a waiver of the \$175 fee. The DOC assumes the remaining 1,731 offenders would be able to pay the \$175 application fee required for transfer.

Based on the estimate of approximately 1,731 offenders that would be able to pay the application fee, the department estimates that the Interstate Compact Fund could see \$302,925 (1,731 offenders x \$175) revenue deposited into the Missouri Interstate Compact Fund each year. These funds shall be used for the costs of administration of these provisions.

	Number of Interstate Compact Transfer Applications	Cost per Transfer	Total Revenue Collected
Year 1	1,731	\$175	\$252,438
Year 2	1,731	\$175	\$302,925
Year 3	1,731	\$175	\$302,925
Year 4	1,731	\$175	\$302,925
Year 5	1,731	\$175	\$302,925
Year 6	1,731	\$175	\$302,925
Year 7	1,731	\$175	\$302,925
Year 8	1,731	\$175	\$302,925
Year 9	1,731	\$175	\$302,925
Year 10	1,731	\$175	\$302,925

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

Oversight notes under current law, all necessary expenses accrued as a result of a person being returned to Missouri pursuant to the Interstate Compact for the Supervision of Parolees and Probationers shall be paid out of the state treasury. This act repeals this provision and provides that any person being returned to Missouri pursuant to the Interstate Compact for Adult Offender Supervision shall be paid out of either the "Missouri Interstate Compact Fund" or out of the state treasury.

Section 589.565 states a Missouri probationer or parolee requesting a transfer of their supervision through this compact shall pay a \$175 application fee and these moneys will be used for the sole benefit of the DOC in support of the administration of this section. Therefore, for purposes of this fiscal note, Oversight assumes transportation expenses will be paid out of the Missouri Interstate Compact Fund and will reflect a negative unknown cost to the fund. However, if the Missouri Interstate Compact Fund does not have moneys available due to the number of offenders granted a waiver of the transfer application fee, there could be an impact to the state treasury. In response to similar legislation from 2022 (HB 1896), officials from the Department of Corrections clarified that the state treasury is the General Revenue Fund. Therefore, Oversight will reflect a potential savings from the deletion of §217.810.4.

In response to similar legislation from 2023 (HB 420), officials from the **Office of the Governor** and the **Office of the State Courts Administrator** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation from 2022 (HB 1896), officials from the **Office of the State Treasurer** 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 for these agencies.

House Amendment (HA) 5

Repeals §217.703 and implements §§217.147, 559.016, and 559.036

DOC states this proposal modifies provisions relating to earned discharge. Under section 559.036, the legislation requires the Division of Probation and Parole to file a notification of earned discharge from probation with the court if the defendant has completed at least twenty-four months of the probation term and is compliant with the terms of supervision. The division shall not file a notification of earned discharge for any defendant who has not paid the ordered restitution in full, is on a term of probation for any class A or class B felony, or is subject to lifetime supervision under sections 217.735 and 559.106. The legislation further sets out additional requirements for the notification to the circuit or prosecuting attorney and the court regarding their requirements in setting a hearing regarding earned discharge.

Parole Discharges

In FY 2022, 2,003 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, 6.4 years of a 7.3 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 2022, 2,621 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 6.4 year sentence with the department.

FY 2022 Parole Discharges

	Offenders	Average Sentence	Average Time Served
Discharge	2,003	7.3	6.4
Earned Compliance Credit Discharge	2,621	6.4	4.8
Total	4,624	6.8	5.5

Parole discharges in FY 2022 without earned compliance credit served, on average, 88% of their sentence with the department. Parole discharges in FY 2022 with earned compliance credit served, on average, 75% of their sentence. The average proportion of sentence served with the department for all discharges from parole in FY 2022 was 81% of their sentence. To estimate the potential impact of the proposed legislation, DOC assumes all future parolees will serve 88% of their sentence with the department.

Probation Discharges

In FY 2022, 1,607 offenders not serving a consecutive sentence were discharged from their final probation supervision sentence without earned compliance credit after having served, on average, 3.6 years of a 6.3 year sentence with the department. In FY 2022, 4,347 offenders not serving a consecutive sentence were discharged from their final probation supervision sentence with earned compliance credit after having served, on average, 2.7 years of a 5.6 year sentence with the department.

FY 2022 Probation Discharges

	Offenders	Average Sentence	Average Time Served
Discharge	1,607	6.3	3.6
Earned Compliance Credit Discharge	4,347	5.6	2.7
Total	5,954	5.8	2.9

Probation discharges in FY 2022 without earned compliance credit served, on average, 57% of their sentence. Probation discharges in FY 2022 with earned compliance credit served, on average, 48% of their sentence. The average proportion of sentence served with the department for all discharges from probation was 50% of their sentence. To estimate the potential impact of the proposed legislation, DOC assumes all new probation cases will serve 57% of their sentence with the department.

Estimate of Future Impact

In FY 2022, 3,768 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 6.6 years; and, they had served, on average, 2.9 years, or 44% of their sentence term in prison prior to first release. This is the proportion of sentence term the DOC uses to estimate time to first release of new admissions.

In FY 2022, there were 4,068 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 7.0 years.

In FY 2022, 16,538 offenders were assigned to the department as new probation cases. Of those new cases, 15,628 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 that these offenders would serve 57% of their sentence with the department instead of the 48% that probation cases discharged with earned compliance credit serve.

The estimated cumulative impact of the proposed legislation is an additional 814 offenders in prison (due to an increased likelihood of revocation of offenders serving longer periods under parole supervision) and 8,494 additional offenders under field supervision by FY 2030. 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 (\$24,195,618).**

Change in prison admissions and probation openings with legislation

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	4,068	4,068	4,068	4,068	4,068	4,068	4,068	4,068	4,068	4,068
After Legislation	4,068	4,068	4,068	4,068	4,068	4,068	4,068	4,068	4,068	4,068
Probation										
Current Law	15,628	15,628	15,628	15,628	15,628	15,628	15,628	15,628	15,628	15,628
After Legislation	15,628	15,628	15,628	15,628	15,628	15,628	15,628	15,628	15,628	15,628
Change (After Legislation - Current Law)										
Admissions										
Probations										
Cumulative Populations										
Prison				407	814	814	814	814	814	814
Parole				-407	-814	529	1,180	1,180	1,180	1,180
Probation			7,314	7,314	7,314	7,314	7,314	7,314	7,314	7,314
Impact										
Prison Population				407	814	814	814	814	814	814
Field Population			7,314	6,907	6,500	7,843	8,494	8,494	8,494	8,494
Population Change			7,314	7,314	7,314	8,656	9,307	9,307	9,307	9,307

	# 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	0	(\$9,499)	\$0	0	\$0	0	\$0
Year 2	0	(\$9,499)	\$0	0	\$0	0	\$0
Year 3	0	(\$9,499)	\$0	143	(\$13,892,629)	7,314	(\$13,892,629)
Year 4	407	(\$9,499)	(\$4,102,729)	135	(\$12,105,176)	6,907	(\$16,207,905)
Year 5	814	(\$9,499)	(\$8,369,567)	127	(\$11,508,744)	6,500	(\$19,878,311)
Year 6	814	(\$9,499)	(\$8,536,958)	153	(\$14,104,468)	7,843	(\$22,641,426)
Year 7	814	(\$9,499)	(\$8,707,697)	166	(\$15,487,921)	8,494	(\$24,195,618)
Year 8	814	(\$9,499)	(\$8,881,851)	166	(\$15,528,328)	8,494	(\$24,410,179)
Year 9	814	(\$9,499)	(\$9,059,488)	166	(\$15,693,853)	8,494	(\$24,753,341)
Year 10	814	(\$9,499)	(\$9,240,678)	166	(\$15,861,452)	8,494	(\$25,102,130)

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.

In response to similar legislation from 2023 (HB 550), officials from the **Office of State Courts Administrator (OSCA)** stated there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Bill as a Whole as Amended

Officials from the **Missouri Department of Transportation** and the **Missouri Office of Prosecution Services** 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other county prosecutors and circuit clerks 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	Fully Implemented (FY 2030)
GENERAL REVENUE				
<u>Savings – Removal of expense in deletion of §217.810.4 – expenses now possibly paid from Missouri Interstate Compact Fund HA 4 p. 4-5</u>	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Cost– DOC (§559.036) HA 5 p. 5-8</u>			\$0 to...	\$0 to...
Personal service	\$0	\$0	(\$7,199,335)	(\$8,696,574)
Fringe benefits	\$0	\$0	(\$4,967,012)	(\$6,000,008)
Equipment and expense	\$0	\$0	(\$1,726,282)	(\$791,339)
Increased incarceration costs	\$0	\$0	\$0	(\$8,707,697)
<u>Total cost - DOC</u>	\$0	\$0	Up to (\$13,892,629)	Up to (\$24,195,618)
FTE Change - DOC	0 FTE	0 FTE	0 to 143 FTE	0 to 166 FTE
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 to (\$13,892,629)</u>	<u>\$0 to (\$24,195,618)</u>
Estimated Net FTE Change to the General Revenue Fund	0 FTE	0 FTE	0 to 143 FTE	0 to 166 FTE

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2030)
MISSOURI INTERSTATE COMPACT FUND				
<u>Revenue – DOC (\$589.565)</u> Transfer application fee HA 4 p. 4-5	\$252,438	\$302,925	\$302,925	\$302,925
<u>Cost – DOC (\$589.565)</u> Transportation expenses HA 4 p. 4-5	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
NET EFFECT ON THE MISSOURI INTERSTATE COMPACT FUND	<u>Less than \$252.438</u>	<u>Less than \$302,925</u>	<u>Less than \$302,925</u>	<u>Less than \$302,925</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2030)
	<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

EARNED DISCHARGE (Section 559.036)

The Division of Probation and Parole, within the Department of Corrections, shall file a notification of earned discharge from probation with the court for any eligible defendant who has completed at least two years of their probation term, paid restitution in full, and complied with the terms of their supervision, as determined by the Division's policies. Exceptions to eligibility are specified in the bill.

The prosecuting or circuit attorney must be notified when a notification of earned discharge is filed, and has 30 days to request a hearing. If the state opposes the discharge of the defendant, the attorney shall argue that earned discharge is not appropriate. The court must hold the hearing and issue its order no later than 60 days after the notification of earned discharge has been filed.

If the court finds that earned discharge is not appropriate, they shall order that probation continue and may modify the conditions of continued probation.

If the prosecuting or circuit attorney does not request a hearing, and the court does not order one, the court shall order the defendant discharged from probation within 60 days of the filing of the notification of earned discharge from probation, but no earlier than 30 days from the filing.

The bill also repeals existing provisions related to earned credit.

SUPERVISION OF ADULT OFFENDERS (Sections 217.810 and 589.565)

This bill repeals the Interstate Compact for Supervision of Parolees and Probationers and modifies the Interstate Compact for Supervision of Adult Offenders on probation or parole from other states.

INTERSTATE COMPACT FOR THE SUPERVISION OF PAROLEES (Section 217.810)

The bill repeals the provisions of the "Interstate Compact for the Supervision of Parolees and Probation" which permits the Governor to enter into an interstate compact with contracting states to allow people convicted of an offense and placed on probation or released on parole to reside in any other state that is party to the Compact.

MISSOURI INTERSTATE COMPACT FUND (Section 589.565)

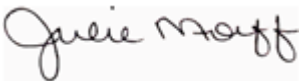
The bill specifies that a Missouri probationer or parolee seeking transfer of his or her supervision under the Interstate Compact for Adult Offender Supervision must pay a \$175 fee for each application, unless waived by the Compact Commissioner for an undue economic burden on the offender.

The bill establishes the "Missouri Interstate Compact Fund" and all fees collected by the Commissioners shall be paid to the Fund. The money in the fund must be used for the sole benefit of the Department of Corrections as specified in the bill.

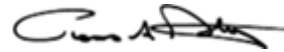
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Department of Public Safety - Office of the Director
Missouri Department of Transportation
Missouri Office of Prosecution Services
Office of the Governor
Office of the State Courts Administrator
Office of the State Treasurer



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