

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1194H.02C
 Bill No.: HCS for HB 454
 Subject: Crimes and Punishment; Criminal Procedure
 Type: Original
 Date: February 23, 2023

Bill Summary: This proposal modifies provisions relating to criminal offenses involving a child and statements made by a child or vulnerable person.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
General Revenue	(Unknown)	(Unknown)	(Unknown)	Could exceed (\$65,468)
Total Estimated Net Effect on General Revenue*	(Unknown)	(Unknown)	(Unknown)	Could exceed (\$65,468)

*Oversight assumes the fiscal impact will not reach the \$250,000 cost threshold (would take approximately 27 additional prisoners).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
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 2024	FY 2025	FY 2026	Fully Implemented (FY 2031)
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 2031)
Total Estimated Net Effect on FTE	0	0	0	\$0

- 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 2031)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§566.151 and 567.030 – Criminal offenses involving a child

Officials from the **Department of Corrections (DOC)** state this proposal modifies provisions relating to criminal offenses involving a child. Section 566.151 changes the age of the victim from any person who is less than fifteen to less than seventeen years of age. Section 567.030 changes the age of the victim from less than eighteen years of age but older than fourteen to older than fifteen years of age. The bill changes the existing class D felony to a class B felony.

Regarding section 566.151, the increase in the minimum age under which a person can be considered enticed as a child could create additional instances in which a person could be charged with a crime under this section. However, there is no available data to determine the number of 16 and 17 year olds to whom this could have potentially applied. Therefore, the impact is an unknown cost.

Regarding section 567.030, there were two new court commitments to prison and one new probation case under this section during FY 2022. These offenses would be changed from class D felonies to class B felonies. The average sentence length for a class D felony sex and child abuse offense is 6.6 years, with 5.3 years spent in prison. Changing this to a class B felony would extend the sentence length to 9.0 years, with 7.2 years spent in prison.

The estimated cumulative impact on the department would be an additional 6 offenders in prison and an additional (2) offenders on field supervision by FY 2031.

Change in prison admissions and probation openings with legislation-Class B Felony

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	3	3	3	3	3	3	3	3	3	3
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	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions										
Probations										
Cumulative Populations										
Prison						2	5	6	6	6
Parole						-2	-4	-2	2	2
Probation										
Impact										
Prison Population						2	5	6	6	6
Field Population						-2	-4	-2	2	2
Population Change							1	4	8	8

	# 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	0	\$0	0	\$0
Year 4	0	(\$9,499)	\$0	0	\$0	0	\$0
Year 5	0	(\$9,499)	\$0	0	\$0	0	\$0
Year 6	2	(\$9,499)	(\$20,975)	0	\$0	(2)	(\$20,975)
Year 7	5	(\$9,499)	(\$53,487)	0	\$0	(4)	(\$53,487)
Year 8	6	(\$9,499)	(\$65,468)	0	\$0	(2)	(\$65,468)
Year 9	6	(\$9,499)	(\$66,778)	0	\$0	2	(\$66,778)
Year 10	6	(\$9,499)	(\$68,113)	0	\$0	2	(\$68,113)

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 notes, from information provided by the State Courts Administrator, the following number of felony convictions under §566.151 and §567.030:

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
§566.151 felonies	15	19	25	22
§567.030 felonies	1	0	2	3

Oversight notes the felony convictions under §566.151 are a class F felony. Oversight will reflect DOC’s impact as an unknown impact to the General Revenue Fund. Oversight notes it would take roughly 27 additional prisoners to reach the \$250,000 cost threshold. Oversight will assume a fiscal impact of less than \$250,000

Bill as a Whole

Officials from the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Public Safety - Missouri Highway Patrol**, the **Department of Social Services**, the **Missouri Office of Prosecution Services**, the **Office of Administration**, and the **Office of the State Public Defender** assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Attorney General’s Office** and the **Office of the State Courts Administrator** assumed 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</u> <u>– State</u> <u>Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2031)
GENERAL REVENUE				
<u>Cost – DOC</u> (§§566.151 and 567.030) p. 3-5 Increased incarceration costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>Could exceed</u> <u>(\$65,468)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(\$65,468)</u>

<u>FISCAL IMPACT</u> <u>- Local</u> <u>Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2031)
	<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

CRIMINAL OFFENSES (Sections 566.151 and 567.030)

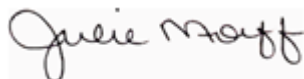
This bill modifies the offense of enticement of a child by increasing the age of the victim from less than 15 years old to less than 17 years old.

Additionally, the bill modifies the penalty provisions for the offense of patronizing prostitution. Currently, the penalty distinctions are for older than 14 years of age and 14 or younger. This bill increases the age from 14 to 15 years old and modifies the offense of patronizing prostitution if the individual is 15 years of age or younger from a class D felony to a class B 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 Health and Senior Services
- Department of Mental Health
- Department of Public Safety - Missouri Highway Patrol
- Department of Social Services
- Missouri Office of Prosecution Services
- Office of Administration
- Office of the State Courts Administrator
- Office of the State Public Defender



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 February 23, 2023



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