

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3638H.011
 Bill No.: HB 1639
 Subject: Courts; Department of Corrections; Prisons and Jails; Crimes and Punishment;
 Criminal Procedure
 Type: #Updated
 Date: March 26, 2024

#Updated for revised/additional responses provided by Department of Revenue, Missouri Department of Transportation, and Missouri Highway Patrol.

Bill Summary: This proposal establishes the "Motivational Boot Camp Incarceration Program" in the Department of Corrections and allows certain persons to be sentenced to the program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
General Revenue*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Oversight assumes the fiscal impact would exceed the \$250,000 threshold, if appropriated, based on the intensive nature of the proposed therapeutic interventions and DOC's need to expand to provide these services. DOC stated this may require additional substance abuse counselors, additional behavioral/mental health counselors, correctional case managers, custody supervisors, recreational officers and medical providers.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
Total Estimated Net Effect on <u>Other State Funds</u>	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
#Federal Highway Funds*	\$0 or Up to (\$535,000)	\$0 or Up to (\$1,700,000)	\$0 or Up to (\$2,675,000)	\$0 or Up to (\$5,350,000)
#Total Estimated Net Effect on <u>All Federal Funds</u>	\$0 or Up to (\$535,000)	\$0 or Up to (\$1,700,000)	\$0 or Up to (\$2,675,000)	\$0 or Up to (\$5,350,000)

*Potential loss of federal highway funds if Missouri is found to be out of compliance with federal rules.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
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 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§217.1250 and 557.530 – Motivational Boot Camp Incarceration Program

Officials from the **Department of Corrections (DOC)** state this proposal establishes the “Motivational Boot Camp Incarceration Program” in the Department of Corrections and allows certain persons to be sentenced to the program.

Within this program, eligible individuals 17 to 22 years of age, sentenced under section 557.530, would participate in a program that emphasizes physical activity and conditioning, strong work ethic, and intensive counseling and treatment related to maladaptive criminal and behavioral thinking patterns. Upon satisfactory completion of the program, the program participant would be eligible for release from confinement and the offense for which this individual was sentenced to the boot camp may be expunged from the criminal record.

Federal Prison Rape Elimination Act (PREA) standards require offenders housed in the DOC under the age of 18 to be site and sound separated from offenders over the age of 18. The department would need to establish a minimum of two outfitted units to accommodate the proposed age range in this legislation; one unit for those offenders under the age of 18 and another unit for those between ages 18 to 22.

Based on the intensive nature of the proposed therapeutic interventions such as drug treatment, physical education, and counseling, the department would need to expand their capacity to provide these services. This would include additional substance abuse counselors, additional behavioral/mental health counselors, correctional case managers, custody supervisors, recreational officers and medical providers. Additionally, supplementary staff training may be necessary to ensure compliance with the intensive physical activity and intensive regimentation requirement outlined in this proposed legislation.

Due to the unknown number of eligible offenders who may be sentenced under this provision, and who will further agree to participate in it, the department estimates a \$0 to (Unknown) fiscal impact.

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

#Officials from the **Department of Revenue (DOR)** state there are potential statutory and federal regulation conflicts regarding expungements. DOR states failure to comply with federal regulations under 49 CFR Section 384 may result in the loss of Federal-aid highway funds apportioned to the State of Missouri or a possible sanction of not allowing Missouri to issue any commercial driver licenses.

#Officials from the **Missouri Department of Transportation (MODOT)** state there is potential for the expungement of Commercial Motor Vehicle (CMV) driver disqualifying offenses in Part 391, which could allow disqualified drivers to drive.

#This could affect the Motor Carrier Safety Assistance Program (MCSAP) if passed as is, to the effect of \$535,000 to \$5.35 million for MCS, Commercial Vehicle Enforcement team of MSHP and those of the St. Louis City, St. Louis County and Kansas City police departments.

#MoDOT notes the following potential loss of federal funds if Missouri is found to be noncompliant:

Year 0 (during the fiscal year FMCSA notifies Missouri of its noncompliance):	\$535,000
Year 1 (next full fiscal year):	\$1,700,000
Year 2 (second full fiscal year):	\$2,675,000
Year 3+ (ongoing until variance resolved):	\$5,350,000

#**Oversight** does not have information to the contrary and, therefore, Oversight will reflect the potential loss of federal funding as provided by MoDOT. Oversight will reflect the fiscal impact as \$0 (Missouri is not found to be out of compliance) up to the amounts listed above (Missouri is found to be out of compliance of federal rules).

#Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state the proposed language in section 557.530.6 references expungement and does not provide the Central Repository with clear instruction on what action to take with the record once expunged. The Highway Patrol would recommend closing the record pursuant to section 610.120, which would conform with the current state of the law.

#Finally, the proposed language in section 557.530.6 conflicts with section 610.130 and section 610.140.2(7)(8)(10), which does not allow a driving while intoxicated (DWI) offense to be expunged for any individual until after ten (10) years from date of conviction and only if the person has no other DWI offenses on record or pending on record. These statutes also exclude any individual who has been issued a commercial driver's license (CDL) or is required to possess a CDL issued by this state or any other state. Federal regulations prohibit the expungement of DWI offenses for any individual that has been issued a CDL. Failure to comply with federal regulations under 49 CFR Section 384 could result in the loss of Federal-aid highway funds apportioned to the State of Missouri or a possible sanction of not allowing Missouri to issue any commercial driver licenses.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

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 **Department of Health and Senior Services**, the **Department of Mental Health**, #the **Department of Public Safety - Missouri Highway Patrol**, #the **Department of Revenue**, #the **Missouri Department of Transportation**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **Office of the State Public Defender**, the **City of Kansas City**, the **Phelps County Sheriff's Departments**, the **Kansas City Police Department**, and the **St. Louis County 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, county prosecutors, 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 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
GENERAL REVENUE				
<u>Costs – DOC (§§217.1250 and 557.530) Motivational Boot Camp Incarceration Program</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
#FEDERAL HIGHWAY FUNDS				
<u>#Loss – MoDOT (\$557.530)</u> Non-compliance with federal rules	<u>\$0 or Up to (\$535,000)</u>	<u>\$0 or Up to (\$1,700,000)</u>	<u>\$0 or Up to (\$2,675,000)</u>	<u>\$0 or Up to (\$5,350,000)</u>
#ESTIMATED NET EFFECT ON FEDERAL HIGHWAY FUNDS	<u>\$0 or Up to (\$535,000)</u>	<u>\$0 or Up to (\$1,700,000)</u>	<u>\$0 or Up to (\$2,675,000)</u>	<u>\$0 or Up to (\$5,350,000)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
	<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

This bill directs the Department of Corrections to establish the "Motivational Boot Camp Incarceration Program".

The Program shall include strong emphasis on work; physical activity; good health practices; intensive counseling; treatment programming; self-discipline and self motivation; and a detailed explanation of program goals, objectives, rules and criteria.

All enrollees shall read and sign the Program rules and criteria. Enrollment in the Program will last for a period of two years.

The Boot Camp Program will be voluntary and available to any person between the ages of 17 and 21 who has two prior convictions for nonviolent criminal offenses. Upon a third conviction for a nonviolent offense, the offender may choose participation in the Boot Camp Incarceration Program in lieu of a jail or prison sentence.

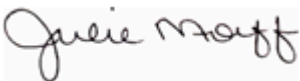
Before placement in the Program, participants will be screened for disqualifying criteria, including: physical or mental disability that would inhibit strenuous physical activity, contagious

diseases, age qualifications, and Department approval for placement. The Department of Corrections will certify an offender's satisfactory completion of the Program to the court. Upon receipt of the certification, the court shall release the person from confinement and expunge the offense for which the person was sentenced from their criminal record. If the Department finds that an offender's participation in the Program is unsatisfactory, the court may impose the original jail or prison sentence.

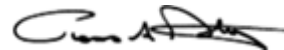
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Department of Health and Senior Services
Department of Mental Health
Department of Public Safety - Missouri Highway Patrol
Department of Revenue
Joint Committee on Administrative Rules
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 Kansas City
Phelps County Sheriff's Departments
Kansas City Police Department
St. Louis County Police Department



Julie Morff
Director
March 26, 2024



Ross Strobe
Assistant Director
March 26, 2024