

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3813H.01I
 Bill No.: HB 1652
 Subject: Crimes and Punishment; Criminal Procedure
 Type: Original
 Date: January 8, 2024

Bill Summary: This proposal establishes the offense of organized retail theft.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
General Revenue	(\$40,371)	(\$98,828)	(\$151,207)	(\$209,754)
Total Estimated Net Effect on General Revenue	(\$40,371)	(\$98,828)	(\$151,207)	(\$209,754)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
Total Estimated Net Effect on Other State Funds	\$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 2029)
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 2025	FY 2026	FY 2027	Fully Implemented (FY 2029)
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 2029)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§570.036 – Organized retail theft

Officials from the **Department of Corrections (DOC)** state this proposal establishes the offense of organized retail theft. Section 570.036 creates a class C felony for all thefts during a period of 120 days and less than \$1,000. A class B felony is created for all thefts during a period of 120 days and more than \$10,000.

For each new class C felony, the department estimates four people could be sentenced to prison and six to probation. The average sentence for a class C felony offense is 6.9 years, of which 3.7 years will be served in prison with 2.1 years to first release. The remaining 3.2 years will be on parole. Probation sentences will be 3 years.

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

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
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	4	4	4	4	4	4	4	4	4	4
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
Prison	4	8	12	15	15	15	15	15	15	15
Parole				1	5	9	13	13	13	13
Probation	6	12	18	18	18	18	18	18	18	18
Impact										
Prison Population	4	8	12	15	15	15	15	15	15	15
Field Population	6	12	18	19	23	27	31	31	31	31
Population Change	10	20	30	34	38	42	46	46	46	46

Given the seriousness of class B felony offenses and that the introduction of a completely new class B felony offense is a rare event, the department assumes the admission of one person per year to prison following the passage of the legislative proposal.

Offenders committed to prison with a class B felony as their most serious sentence have an average sentence length of 9.0 years and served, on average, 3.4 years in prison prior to first release. The department assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community.

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

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
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	1	1	1	1	1	1	1	1	1	1
Probations										
Cumulative Populations										
Prison	1	2	3	4	5	5	5	5	5	5
Parole						1	2	3	4	4
Probation										
Impact										
Prison Population	1	2	3	4	5	5	5	5	5	5
Field Population						1	2	3	4	4
Population Change	1	2	3	4	5	6	7	8	9	9

Combined Cumulative Estimated Impact

The combined cumulative estimated impact on the department is 20 additional offenders in prison and 23 additional offenders on field supervision by FY 2029.

Change in prison admissions and probation openings with legislation

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
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	5	5	5	5	5	5	5	5	5	5
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
Prison	5	10	15	19	20	20	20	20	20	20
Parole	0	0	0	1	5	10	15	16	17	17
Probation	6	12	18	18	18	18	18	18	18	18
Impact										
Prison Population	5	10	15	19	20	20	20	20	20	20
Field Population	6	12	18	19	23	28	33	34	35	35
Population Change	11	22	33	38	43	48	53	54	55	55

	# 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	5	(\$9,689)	(\$40,371)	0	\$0	6	(\$40,371)
Year 2	10	(\$9,689)	(\$98,828)	0	\$0	12	(\$98,828)
Year 3	15	(\$9,689)	(\$151,207)	0	\$0	18	(\$151,207)
Year 4	19	(\$9,689)	(\$195,359)	0	\$0	19	(\$195,359)
Year 5	20	(\$9,689)	(\$209,754)	0	\$0	23	(\$209,754)
Year 6	20	(\$9,689)	(\$213,949)	0	\$0	28	(\$213,949)
Year 7	20	(\$9,689)	(\$218,228)	0	\$0	33	(\$218,228)
Year 8	20	(\$9,689)	(\$222,592)	0	\$0	34	(\$222,592)
Year 9	20	(\$9,689)	(\$227,044)	0	\$0	35	(\$227,044)
Year 10	20	(\$9,689)	(\$231,585)	0	\$0	35	(\$231,585)

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 \$26.545 per day or an annual cost of \$9,689 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 \$99.90 per day or an annual cost of \$36,464 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.

Oversight notes the provisions of this proposal state the court shall order a person who violates §570.036 to pay restitution. Oversight assumes restitution will be paid to the merchant and there will be no impact to the State.

Officials from the **Office of Attorney General (AGO)** assume any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation or investigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

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

Officials from the **Department of Commerce and Insurance**, the **Department of Public Safety - Missouri Highway Patrol**, the **Office of the State Courts Administrator**, the **Office of the State Public Defender**, and the **City of Kansas City** 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 and counties 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</u> <u>– State</u> <u>Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2029)
GENERAL REVENUE				
<u>Cost – DOC</u> (§570.036) Increased incarceration costs	(\$40,371)	(\$98,828)	(\$151,207)	(\$209,754)
ESTIMATED NET EFFECT ON GENERAL REVENUE	(\$40,371)	(\$98,828)	(\$151,207)	(\$209,754)

<u>FISCAL IMPACT</u> <u>– Local</u> <u>Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2029)
	\$0	\$0	\$0	\$0

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill provides that a person commits the offense of organized retail theft if he or she commits a series of thefts of retail merchandise on the premises of a merchant or through the use of the Internet with the intent to return the merchandise to the merchant for value or resell, trade, or barter the merchandise for value in any manner.

The offense of organized retail theft is a class C felony if the aggregate value of the property or services, as determined under the bill, involved in all thefts committed during a 120-day period is between \$1,500 and \$10,000 and a class B felony if such aggregate value is over \$10,000. In addition to any other penalty, the person who violates the provisions of this bill will be ordered to pay restitution.

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

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SOURCES OF INFORMATION

Attorney General's Office

Department of Commerce and Insurance

Department of Corrections

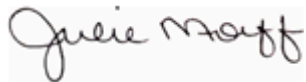
Department of Public Safety - Missouri Highway Patrol

Missouri Office of Prosecution Services

Office of the State Courts Administrator

Office of the State Public Defender


City of Kansas City



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