

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4554H.01I
Bill No.: HB 1849
Subject: Crimes and Punishment; Criminal Procedure; Business and Commerce; Political Subdivisions
Type: Original
Date: February 16, 2024

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue	(\$8,074)	(\$19,766)	(\$20,161)
Total Estimated Net Effect on General Revenue	(\$8,074)	(\$19,766)	(\$20,161)

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

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on FTE	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
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§573.520 – Adult cabaret

Officials from the **Department of Corrections (DOC)** state this proposal modifies provisions relating to sexually oriented businesses.

Section 573.520 makes it a class A misdemeanor for the first offense of engaging in an adult cabaret performance and a class E felony for any subsequent offense.

As misdemeanors fall outside the purview of the Department of Corrections, the DOC will not be analyzing their projected impact. Thus, as it relates to DOC, the intent of the bill is to create one new class E felony offense.

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 2027.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	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	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

	# 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	1	(\$9,689)	(\$8,074)	0	\$0	2	(\$8,074)
Year 2	2	(\$9,689)	(\$19,766)	0	\$0	4	(\$19,766)
Year 3	2	(\$9,689)	(\$20,161)	0	\$0	7	(\$20,161)
Year 4	2	(\$9,689)	(\$20,564)	0	\$0	7	(\$20,564)
Year 5	2	(\$9,689)	(\$20,975)	0	\$0	7	(\$20,975)
Year 6	2	(\$9,689)	(\$21,395)	0	\$0	7	(\$21,395)
Year 7	2	(\$9,689)	(\$21,823)	0	\$0	7	(\$21,823)
Year 8	2	(\$9,689)	(\$22,259)	0	\$0	7	(\$22,259)
Year 9	2	(\$9,689)	(\$22,704)	0	\$0	7	(\$22,704)
Year 10	2	(\$9,689)	(\$23,159)	0	\$0	7	(\$23,159)

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 the 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 impact for fiscal note purposes.

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. However, the AGO may seek additional appropriations if the proposal results in 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 **Office of the State Public Defender (SPD)** state per the recently released National Public Defense Workload Study, the new charge contemplated by this change to Section 573.520 would take approximately twenty-two hours of SPD work for reasonably effective representation. If one hundred cases were filed under this section in a fiscal year, representation would result in a need for an additional attorney. Because the number of cases that will be filed under this statute is unknown, the exact additional number of attorneys necessary is unknown. Each case would also result in unknown increased costs in the need for core staff, travel and litigation expenses.

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 a new crime (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.

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 Public Safety - Missouri Highway Patrol**, the **Missouri Department of Transportation**, the **Office of the State Courts Administrator**, the **City of Kansas City**, the **City of O'Fallon**, the **Phelps**

County Sheriff’s Department, 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, 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 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Costs – DOC (\$573.520) Increased incarceration costs</u>	<u>(\$8,074)</u>	<u>(\$19,766)</u>	<u>(\$20,161)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$8,074)</u>	<u>(\$19,766)</u>	<u>(\$20,161)</u>

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

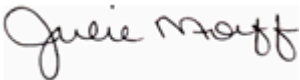
SEXUALLY ORIENTED BUSINESSES (Section 573.520)

This bill establishes that a person commits the offense of engaging in an adult cabaret performance, as defined in the bill, if such performance is on public property or in front of a child. Penalties for this offense include a class A misdemeanor for a first offense and a class E felony for a second or subsequent offense.

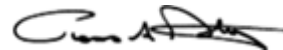
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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 Kansas City
City of O'Fallon
Phelps County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department



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