

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5055H.011
 Bill No.: HB 2367
 Subject: Crimes and Punishment; Criminal Procedure; Property, Real and Personal;
 Immigration
 Type: Original
 Date: February 6, 2024

Bill Summary: This proposal creates the offense of trespass by an illegal alien.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
General Revenue	(\$40,371)	(\$98,828)	(\$141,126)	(\$174,795)
Total Estimated Net Effect on General Revenue	(\$40,371)	(\$98,828)	(\$141,126)	(\$174,795)

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)
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 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

§569.088 – Trespass by an illegal alien

Officials from the **Department of Corrections (DOC)** state this proposal creates the offense of trespass by an illegal alien. The associated penalty is a class E felony when the other offense committed under subsection one is an infraction or violation. The associated penalty is a class C felony when the other offense committed under subsection one is misdemeanor or felony.

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 could be served in prison with 1.4 years to first release. The remaining 1.3 years could be on parole. Probation sentences could be 3 years.

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

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 could be served in prison with 2.1 years to first release. The remaining 3.2 years could be on parole. Probation sentences could 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

Combined Cumulative Estimated Impact

The combined cumulative estimated impact on the department is 17 additional offenders in prison and 26 additional offenders on field supervision by FY 2028.

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	8	8	8	8	8	8	8	8	8	8
Change (After Legislation - Current Law)										
Admissions	5	5	5	5	5	5	5	5	5	5
Probations	8	8	8	8	8	8	8	8	8	8
Cumulative Populations										
Prison	5	10	14	17	17	17	17	17	17	17
Parole	0	0	1	2	6	10	14	14	14	14
Probation	8	16	24	24	24	24	24	24	24	24
Impact										
Prison Population	5	10	14	17	17	17	17	17	17	17
Field Population	8	16	25	26	30	34	38	38	38	38
Population Change	13	26	39	43	47	51	55	55	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	8	(\$40,371)
Year 2	10	(\$9,689)	(\$98,828)	0	\$0	16	(\$98,828)
Year 3	14	(\$9,689)	(\$141,126)	0	\$0	25	(\$141,126)
Year 4	17	(\$9,689)	(\$174,795)	0	\$0	26	(\$174,795)
Year 5	17	(\$9,689)	(\$178,291)	0	\$0	30	(\$178,291)
Year 6	17	(\$9,689)	(\$181,856)	0	\$0	34	(\$181,856)
Year 7	17	(\$9,689)	(\$185,494)	0	\$0	38	(\$185,494)
Year 8	17	(\$9,689)	(\$189,203)	0	\$0	38	(\$189,203)
Year 9	17	(\$9,689)	(\$192,988)	0	\$0	38	(\$192,988)
Year 10	17	(\$9,689)	(\$196,847)	0	\$0	38	(\$196,847)

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 impact 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 569.088 would take approximately thirty-five hours of SPD work for reasonably effective representation. Representation in one hundred cases under this section would result in a need for an additional one to two attorneys. 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 **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 **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 Natural Resources, the Department of Public Safety - Missouri Highway Patrol, the Missouri Department of Conservation, the Office of the State Courts Administrator, the City of Kansas City, the City of Osceola, 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</u> <u>– State</u> <u>Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
GENERAL REVENUE				
<u>Costs – DOC</u> (\$569.088) Increased incarceration costs	<u>(\$40,371)</u>	<u>(\$98,828)</u>	<u>(\$141,126)</u>	<u>(\$174,795)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$40,371)</u>	<u>(\$98,828)</u>	<u>(\$141,126)</u>	<u>(\$174,795)</u>

<u>FISCAL IMPACT</u> <u>– Local</u> <u>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 specifies that if a person commits an offense in violation of a state law or county or municipal ordinance and the person is an illegal alien, the person shall also be guilty of the offense of trespass by an illegal alien.

The offense of trespass by an illegal alien is a class E felony if the initial offense committed by the person is an infraction in violation of a State law or county or municipal ordinance. The offense of trespass by an illegal alien is a class C felony if the initial offense is a misdemeanor or felony.

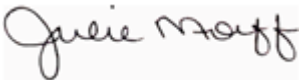
The punishment for the offense of trespass by an illegal alien is additional to the punishment for the initial offense.

The bill does not apply to a person who is federally authorized to remain in the United States.

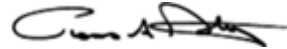
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Natural Resources
Department of Public Safety - Missouri Highway Patrol
Missouri Department of Conservation
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
City of Kansas City
City of Osceola
Phelps County Sheriff's Department
Kansas City Police Department
St. Louis County Police Department



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