

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5277H.06C  
 Bill No.: HCS for HB Nos. 2523, 2367 & 2470  
 Subject: Crimes and Punishment; Professional Registration and Licensing; Immigration;  
 Drugs and Controlled Substances  
 Type: Original  
 Date: February 22, 2024

Bill Summary: This proposal modifies and establishes provisions relating to public safety.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
General Revenue	Could exceed (\$32,297)	Could exceed (\$79,062)	Could exceed (\$120,965)	Could exceed (\$154,231)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Could exceed (\$32,297)</b>	<b>Could exceed (\$79,062)</b>	<b>Could exceed (\$120,965)</b>	<b>Could exceed (\$154,231)</b>

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

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Fully Implemented (FY 2028)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Fully Implemented (FY 2028)</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Fully Implemented (FY 2028)</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

**§569.089 – Trespass by an illegal alien**

Officials from the **Department of Corrections (DOC)** state this proposal modifies and establishes provisions relating to public safety. Section 569.089 defines the offense of trespass by an illegal alien and creates the associated class C felony penalty. Section 579.065 adjusts the amounts of fentanyl and carfentanil associated with the definition and penalty for drug trafficking in the first degree, making the possession of more than two milligrams of fentanyl or carfentanil a class A felony, with a punishment of life without parole if death was a result.

Regarding section 569.089, as these are new crimes, there is little direct data on which to base an estimate, and as such, the department estimates an impact comparable to the creation of a new class C felony.

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.

The cumulative impact on the department is estimated to be 15 additional offenders in prison and 19 additional offenders on field supervision by FY 2028.

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

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
<b>Change (After Legislation - Current Law)</b>										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	6	6	6	6	6	6	6	6	6	6
<b>Cumulative Populations</b>										
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
<b>Impact</b>										
Prison Population	4	8	12	15	15	15	15	15	15	15
Field Population	6	12	18	19	23	27	31	31	31	31
<b>Population Change</b>	<b>10</b>	<b>20</b>	<b>30</b>	<b>34</b>	<b>38</b>	<b>42</b>	<b>46</b>	<b>46</b>	<b>46</b>	<b>46</b>

	# to prison	Cost per year	Total Costs for <b>prison</b>	Change in probation & parole officers	Total cost for <b>probation and parole</b>	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	4	(\$9,689)	(\$32,297)	0	\$0	6	(\$32,297)
Year 2	8	(\$9,689)	(\$79,062)	0	\$0	12	(\$79,062)
Year 3	12	(\$9,689)	(\$120,965)	0	\$0	18	(\$120,965)
Year 4	15	(\$9,689)	(\$154,231)	0	\$0	19	(\$154,231)
Year 5	15	(\$9,689)	(\$157,315)	0	\$0	23	(\$157,315)
Year 6	15	(\$9,689)	(\$160,462)	0	\$0	27	(\$160,462)
Year 7	15	(\$9,689)	(\$163,671)	0	\$0	31	(\$163,671)
Year 8	15	(\$9,689)	(\$166,944)	0	\$0	31	(\$166,944)
Year 9	15	(\$9,689)	(\$170,283)	0	\$0	31	(\$170,283)
Year 10	15	(\$9,689)	(\$173,689)	0	\$0	31	(\$173,689)

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 **Missouri National Guard (MNG)** assume the Missouri National Guard could possibly be involved with the southern border humanitarian crisis at the Governor's direction. Unfortunately, at this time, any involvement will have an unknown fiscal impact to MNG and the state of Missouri.

**Oversight** notes on February 20, 2024, Governor Mike Parson announced the deployment of Missouri National Guard troops and Missouri Highway Patrol troopers to the Texas southern border <https://governor.mo.gov/press-releases/archive/governor-parson-announces-deployment-200-national-guard-members-22-highway>.

**Oversight** assumes if additional deployments are required in the future, there may be a fiscal impact depending on the number of staff, length of deployment, location, and mission. Therefore, Oversight will present a \$0 (no additional deployments) to an (Unknown) impact to the General Revenue Fund.

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 569.089 creating a class B or C felony, would take approximately fifty-seven 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 three 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 not create the number of new cases required to request additional FTE for the SPD 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.

In response to similar legislation from 2024 (HB 2523), officials from the **Office of Attorney General (AGO)** assumed 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.

#### §579.065 – Trafficking drugs in the first degree

**DOC** states in FY 2023, there were 18 new prison admissions and 12 new probation cases for 1<sup>st</sup> degree drug trafficking.

When an offender is sentenced to imprisonment, the department receives a sentence and judgement form which contains information on the conviction(s) and sentence(s). Most sentence and judgement forms for drug related offenses do not notate the type or amount of the drug associated with the conviction. Given that the drug associated with the offense, and any amount associated with the drug, is unknown in the majority of cases, the department is unable to estimate the number of new admissions related to the possession and or distribution of fentanyl or carfentanil. Therefore, the DOC will assume an unknown impact to this legislation.

**Oversight** does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's estimated (unknown) impact for fiscal note purposes.

Responses regarding the proposed legislation as a whole

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 [569.089] and adding the possible penalty of death to 579.065 [see 579.065.4] 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 – (Office of the Director and Missouri Highway Patrol)**, the **Department of Social Services**, the **Missouri Department of Conservation**, the **Office of the Governor**, the **Office of the State Courts Administrator**, the **City of Kansas City**, the **Branson Police Department**, **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	Fully Implemented (FY 2028)
<b>GENERAL REVENUE</b>				
<u>Costs – DOC (§569.089)</u> Increased incarceration costs	(\$32,297)	(\$79,062)	(\$120,965)	(\$154,231)
<u>Costs – MNG (§569.089)</u> Potential deployments	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Costs – DOC (§579.065)</u> Changes to first-degree drug trafficking charges relating to fentanyl or carfentanil	(Unknown)	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>Could exceed</u></b> <b><u>(\$32,297)</u></b>	<b><u>Could exceed</u></b> <b><u>(\$79,062)</u></b>	<b><u>Could exceed</u></b> <b><u>(\$120,965)</u></b>	<b><u>Could exceed</u></b> <b><u>(\$154,231)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT – Small Business

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

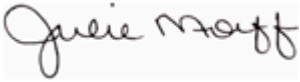
FISCAL DESCRIPTION

The proposed legislation modifies and establishes provisions relating to public safety.

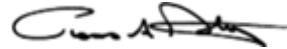
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office  
Department of Corrections  
Department of Natural Resources  
Department of Public Safety  
Department of Social Services  
Missouri Department of Conservation  
Missouri National Guard  
Missouri Office of Prosecution Services  
Office of the Governor  
Office of the State Courts Administrator  
Office of the State Public Defender  
City of Kansas City  
Phelps County Sheriff's Department  
Kansas City Police Department  
St. Louis County Police Department



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