

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5403H.03C  
 Bill No.: HCS for HB Nos. 2628 & 2603  
 Subject: Elections; Science and Technology; Crimes and Punishment  
 Type: Original  
 Date: February 23, 2024

Bill Summary: This proposal modifies provisions relating to electronic communications.

**FISCAL SUMMARY**

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

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Merchandising Practices Revolving Fund (0631)*	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

\*Oversight assumes this proposal could increase collections by the AGO from offenders, but assumes the amount of collections would not reach the \$250,000 threshold.

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>Total Estimated Net Effect on <u>All</u> Federal Funds</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>Total Estimated Net Effect on FTE</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>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

**§115.645 – Certain political advertisements**

Officials from the **Department of Corrections (DOC)** state this proposal creates the offense of distribution of synthetic media relating to elections or candidates for public office. Section 115.645 creates penalties for distributing a synthetic media message with content about a candidate that is deceptive and fraudulent within ninety days of an election. The penalty for this offense is a class B misdemeanor, unless the violation includes intent to cause violence or bodily harm, in which case it is a class A misdemeanor. The penalty is a class E felony if the person commits the violation within five years of one or more prior convictions for this offense.

Misdemeanors fall outside the purview of the department, and there is no expected impact from that portion of the bill.

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 E 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 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
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
<b>Change (After Legislation - Current Law)</b>										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
<b>Cumulative Populations</b>										
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
<b>Impact</b>										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
<b>Population Change</b>	<b>3</b>	<b>6</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</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	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 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.

In response to a previous version, officials from the **Office of the State Public Defender (SPD)** stated per the recently released National Public Defense Workload Study, the new charge contemplated by this change to Section 115.645, which will impact SPD's child clients, would take approximately fourteen 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. However, if the charge was classified as a class D misdemeanor no jail time would be authorized and the cases would not qualify for SPD representation.

**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 [115.645] creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

§§407.1095, 407.1098, 407.1101, 407.1104, and 407.1115 – Caller Identification Spoofing

In response to similar legislation from 2024 (HB 2603), officials from the **Office of Attorney General (AGO)** did not respond to our request for fiscal impact. However, in response to a similar proposal (SB 963), the AGO assumed any potential litigation costs arising from this proposal can be absorbed with existing resources. The AGO stated they may seek additional appropriations if the proposal results in a significant increase in litigation or investigation.

**Oversight** inquired of the AGO regarding the number of cases resolved in the past and the amount collected in judgements. The money received for judgements goes to the Merchandising Practices Revolving Fund (0631). This is the information they provided:

<u>Year</u>	<u># of cases</u>	<u>Judgements</u>	<u># of collections</u>	<u>Collections</u>
2014	17	\$758,000	12	\$260,500
2015	7	\$1,109,000	4	\$605,917
2016	6	\$43,000	4	\$18,000
2017	11	\$805,433	6	\$305,433
2018	1	\$500,133	1	\$135
2019	1	\$85,000	1	\$8,500
2020	0	\$0	0	\$0
2021	0	\$0	0	\$0
2022	0	\$0	0	\$0

2023	3	\$244,753,640	2	\$15,000
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**Oversight** assumes this proposal may increase the number of cases referred to the AGO and could result in an increase in fine collections under this chapter. Oversight will reflect a \$0 or Unknown (assumed to be less than \$250,000 in additional collections resulting from these changes) positive fiscal impact to the Merchandising Practices Revolving Fund.

**DOC** states the penalties in section 407.1115 are all misdemeanors. As misdemeanors fall outside the purview of the department, there is no expected impact from that portion of the bill.

In response to similar legislation from 2024 (HCS HB 2603), officials from the **Office of the State Public Defender (SPD)** stated per the recently released National Public Defense Workload Study, the new charge contemplated by this change to Section 407.1115 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. However, if the charge was classified as a class D misdemeanor no jail time would be authorized and the cases would not qualify for SPD representation.

**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.

Responses regarding the proposed legislation as a whole

Officials from the **Office of State Courts Administrator (OSCA)** state there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

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 Public Safety - Missouri Highway Patrol** and the **Missouri Ethics Commission** 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.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
<b>GENERAL REVENUE</b>			
<u>Costs – DOC (\$115.645) Increased incarceration costs</u>	<u>(\$8,074)</u>	<u>(\$19,766)</u>	<u>(\$20,161)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$8,074)</u></b>	<b><u>(\$19,766)</u></b>	<b><u>(\$20,161)</u></b>
<b>MERCHANDISING PRACTICES REVOLVING FUND (0631)</b>			
<u>Revenue - AGO (§§407.1095 – 407.1110) Potential increase in judgement collections for expansion of Telemarketing No-Call statutes</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
<b>ESTIMATED NET EFFECT TO THE MERCHANDISING PRACTICES REVOLVING FUND (0631)</b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>

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

FISCAL IMPACT – Small Business

Small businesses may desire to be placed on the no-call list as a result of this proposal.

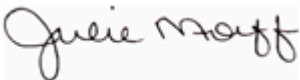
FISCAL DESCRIPTION

The proposed legislation modifies provisions relating to electronic communications.

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 Public Safety - Missouri Highway Patrol  
Missouri Ethics Commission  
Missouri Office of Prosecution Services  
Office of the Secretary of State  
Office of the State Courts Administrator  
Office of the State Public Defender



Julie Morff  
Director  
February 23, 2024



Ross Strobe  
Assistant Director  
February 23, 2024