

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5924H.07C
 Bill No.: HCS for HB 2896
 Subject: Crimes and Punishment; Law Enforcement Officers and Agencies; Property, Real and Personal
 Type: Original
 Date: April 15, 2024

Bill Summary: This proposal establishes an alternative remedy to remove persons who are unlawfully occupying a residential dwelling and establishes the offense of criminal mischief.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue	(\$16,148)	(\$39,531)	(\$40,322)
Total Estimated Net Effect on General Revenue	(\$16,148)	(\$39,531)	(\$40,322)

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

§§534.602, 534.604, and 569.200 – Criminal mischief

Officials from the **Department of Corrections (DOC)** state this proposal establishes an alternative remedy to remove persons who are unlawfully occupying a residential dwelling and establishes the offense of criminal mischief.

Section 534.602 is modified and section 534.604 is created, which includes a class E felony penalty for the violation of the terms and conditions of an ex parte order under section 534.602.

Section 569.200 is created, including the definition of the offense of criminal mischief and the associated class E felony penalty.

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 two new class E felonies.

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 4 additional offenders in prison and 14 additional offenders on field supervision by FY 2027.

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	2	2	2	2	2	2	2	2	2	2
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	2	4	4	4	4	4	4	4	4	4
Parole	0	0	2	2	2	2	2	2	2	2
Probation	4	8	12	12	12	12	12	12	12	12
Impact										
Prison Population	2	4	4	4	4	4	4	4	4	4
Field Population	4	8	14	14	14	14	14	14	14	14
Population Change	6	12	18	18	18	18	18	18	18	18

	# 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	2	(\$9,689)	(\$16,148)	0	\$0	4	(\$16,148)
Year 2	4	(\$9,689)	(\$39,531)	0	\$0	8	(\$39,531)
Year 3	4	(\$9,689)	(\$40,322)	0	\$0	14	(\$40,322)
Year 4	4	(\$9,689)	(\$41,128)	0	\$0	14	(\$41,128)
Year 5	4	(\$9,689)	(\$41,951)	0	\$0	14	(\$41,951)
Year 6	4	(\$9,689)	(\$42,790)	0	\$0	14	(\$42,790)
Year 7	4	(\$9,689)	(\$43,646)	0	\$0	14	(\$43,646)
Year 8	4	(\$9,689)	(\$44,518)	0	\$0	14	(\$44,518)
Year 9	4	(\$9,689)	(\$45,409)	0	\$0	14	(\$45,409)
Year 10	4	(\$9,689)	(\$46,317)	0	\$0	14	(\$46,317)

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 Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The enactment of new crimes [534.604.3 and 569.200] 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 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.

Oversight notes the provisions of this proposal state the sheriff is entitled to the same fee for the service of the ex parte order that is currently being charged for serving a writ of possession under section 57.280. Additionally, the property owner or authorized agent may request that the sheriff stand by to keep the peace while the owner changes locks and/or removes personal property of the unlawful occupant(s). If requested, the sheriff may charge a reasonable hourly rate for this service. Oversight assumes this will have a minimal fiscal impact on sheriff's departments and will not present an impact for fiscal note purposes.

Officials from the **Branson Police Department** state this will require some additional man-hours for case preparation, arrests, and court time. **Oversight** assumes any fiscal impact incurred by the Branson Police Department would be absorbable within current funding levels.

Officials from the **Department of Commerce and Insurance**, the **Department of Public Safety - Missouri Highway Patrol**, the **Joint Committee on Administrative Rules**, the **Missouri Department of Agriculture**, the **Office of the Secretary of State**, the **City of Kansas City**, 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.

In response to a previous version, officials from the **Office of the State Public Defender** assumed the proposal will have no fiscal impact on their organization.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Attorney General's Office** did not respond to **Oversight's** request for fiscal impact for this proposal.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, circuit clerks, 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 (§§534.604 and 569.200)</u> Increased incarceration costs	(\$16,148)	(\$39,531)	(\$40,322)
ESTIMATED NET EFFECT ON GENERAL REVENUE	(\$16,148)	(\$39,531)	(\$40,322)

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

The proposed legislation establishes an alternative remedy to remove persons who are unlawfully occupying a residential dwelling and establishes the offense of criminal mischief.

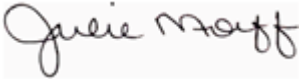
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

- Department of Commerce and Insurance
- Department of Corrections
- Department of Public Safety - Missouri Highway Patrol
- Joint Committee on Administrative Rules
- Missouri Department of Agriculture
- 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

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Phelps County Sheriff's Department
Branson Police Department
Kansas City Police Department
St. Louis County Police Department



Julie Morff
Director
April 15, 2024



Ross Strope
Assistant Director
April 15, 2024