

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0544H.011
 Bill No.: HB 87
 Subject: Drunk Driving/Boating; Crimes and Punishment; Motor Vehicles; Criminal Procedure
 Type: Original
 Date: February 4, 2025

Bill Summary: This proposal modifies provisions relating to the offense of driving while intoxicated.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
General Revenue*	(\$253,387)	(\$534,523)	(\$873,275)	(\$3,239,765)
Total Estimated Net Effect on General Revenue	(\$253,387)	(\$534,523)	(\$873,275)	(\$3,239,765)

*DOC incarceration costs and probation/parole savings.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
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 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
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 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
General Revenue	0 FTE	(1) FTE	(1) FTE	(1) FTE
Total Estimated Net Effect on FTE	0 FTE	(1) FTE	(1) FTE	(1) FTE

- 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 2026	FY 2027	FY 2028	Fully Implemented (FY 2035)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§577.010 – Driving While Intoxicated Provisions

Officials from the **Department of Corrections (DOC)** assume the proposed legislation modifies §577.010 to increase punishment from a class E felony to class D felony if a person commits the offense of driving while intoxicated and acts with criminal negligence to cause physical injury to another person. Proposed legislation raises the punishment from a class D felony to a class C felony if serious physical injury occurs. Legislation also raises punishment from a class C felony to a class B felony if death occurs and person would not be eligible for probation or parole for a minimum of 5 years. If death of 2 or more persons, the felony class is raised from current class B to a class A felony, and if while driving while intoxicated the defendant acts with criminal negligence to cause the death of any person while the defendant has a blood alcohol content of at least fifteen hundredths of one percent by weight of alcohol, person is not eligible for probation or parole for a minimum of 10 years.

Class E to Class D

In FY 2024, 69 offenders were sentenced to probation and 7 offenders were sentenced to prison for Class E DWI – Physical Injury. The average sentence for a violent class E felony offense is 4 years, of which 3 years will be served in prison with 2.2 years to first release. The remaining 1.0 year will be on parole. Probation sentences will be 4 years. The average sentence for a violent class D felony offense is 5.7 years, of which 4 years will be served in prison with 3 years to first release. The remaining 1.7 years will be on parole. Probation sentences will be 4 years.

Class D to Class C

In FY 2024, 64 offenders were sentenced to probation and 13 offenders were sentenced to prison for Class D DWI – Serious Physical Injury. The average sentence for a violent class D felony offense is 5.7 years, of which 4 years will be served in prison with 3 years to first release. The remaining 1.7 years will be on parole. Probation sentences will be 4 years. 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.

Class C to Class B

In FY 2024, 8 offenders were sentenced to probation and 10 offenders were sentenced to prison for Class C DWI – Death of Another. 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. Offenders committed to prison with a class B felony as their most serious sentence, have an average sentence length of 9.0 years and served, on average, 3.4 years in prison prior to first release.

Given that the legislation assumes all class B felonies will serve 5 years in prison prior to probation or parole, we will assume these sentences will be served with 5 years to first release.

Class B to Class A

In FY 2024, 1 offender was sentenced to probation and 2 offenders were sentenced to prison for Class B DWI – Death of 2 or More. 2 offenders were sentenced to probation and 0 offenders were sentenced to prison for Class B DWI – BAC > OR = .18 And Death of a Person. Due to not having sufficient information on prior offenses involving BAC between .15 and .18 and death of a person, we are unable to estimate the impact of lowering the threshold of BAC from .18 to .15 for the felony listed above. Offenders committed to prison with a class B felony as their most serious sentence, have an average sentence length of 9.0 years and served, on average, 3.4 years in prison prior to first release. The department assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community. Probation sentences will be 5 years. Offenders committed to prison with a class A felony have an average sentence length of 17.1 years and serve, on average, 12.3 years in prison prior to first release. The department assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community.

Class B - 5 years probation and parole ineligible (excluding two offenses in prior section)

In FY 2024, 13 offenders were sentenced to probation and 38 offenders were sentenced to prison for Class B DWI offenses not mentioned above. Offenders committed to prison with a class B felony as their most serious sentence, have an average sentence length of 9.0 years and served, on average, 3.4 years in prison prior to first release. The department assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community. For the purposes of determining impact of making this offenses parole ineligible, we will assume a probation term of 5 years for those sentenced to originally sentenced to probation and 5.0 years served prior to first release for all offenders.

Class A - 10 years probation and parole ineligible

In FY 2024, no offenders were sentenced to probation or prison for Class A DWI offenses. As a result, no impact is estimated.

Combined Estimated Cumulative Impact

The combined estimated cumulative impact on the department is 266 additional offenders in prison and 81 less offenders on field supervision by FY 2035.

	# 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	29	(\$10,485)	(\$253,387)	0	\$0	(29)	(\$253,387)
Year 2	58	(\$10,485)	(\$620,292)	(1)	\$85,769	(58)	(\$534,523)
Year 3	88	(\$10,485)	(\$959,955)	(1)	\$86,680	(88)	(\$873,275)
Year 4	123	(\$10,485)	(\$1,368,591)	(2)	\$175,203	(113)	(\$1,193,388)
Year 5	160	(\$10,485)	(\$1,815,886)	(2)	\$177,066	(133)	(\$1,638,820)
Year 6	225	(\$10,485)	(2,604,662)	(3)	\$268,431	(160)	(\$2,336,231)
Year 7	251	(\$10,485)	(\$2,963,758)	(2)	\$180,860	(145)	(\$2,782,898)
Year 8	256	(\$10,485)	(\$3,083,253)	(2)	\$182,789	(113)	(\$2,900,464)
Year 9	261	(\$10,485)	(\$3,206,342)	(1)	\$92,370	(81)	(\$3,113,972)
Year 10	266	(\$10,485)	(\$3,333,122)	(1)	\$93,357	(81)	(\$3,239,765)

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by DOC.

Officials from the **Department of Revenue, Missouri Highway Patrol, Missouri Department of Transportation, Office of the State Public Defender, Missouri Office of Prosecution Services and Office of the State Courts Administrator** 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 2026 (10 Mo.)	FY 2027	FY 2028	Fully Implemented (FY 2035)
GENERAL REVENUE FUND				
<u>Savings – DOC (§577.010)</u>				
Personal Service	\$0	\$47,303	\$47,776	\$51,222
Fringe Benefits	\$0	\$34,909	\$35,258	\$37,801
Exp. & Equip.	\$0	\$3,557	\$3,646	\$4,334
<u>Total Savings - DOC</u>	<u>\$0</u>	<u>\$85,769</u>	<u>\$86,680</u>	<u>\$93,357</u>
FTE Change - DOC	0 FTE	(1) FTE	(1) FTE	(1) FTE
<u>Cost – DOC (§577.010) increase in offenders confined to prison rather than on probation and parole</u>	<u>(\$253,387)</u>	<u>(\$620,292)</u>	<u>(\$959,955)</u>	<u>(\$3,333,122)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$253,387)</u>	<u>(\$534,523)</u>	<u>(\$873,275)</u>	<u>(\$3,239,765)</u>
Estimated Net FTE Change on General Revenue	0 FTE	(1) FTE	(1) FTE	(1) FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028	Fully Implemented (FY 2035)
	<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 modifies the offense of driving while intoxicated. Currently, the offense is a class E felony if the defendant, while driving while intoxicated, acts with criminal negligence to cause physical injury to another person. The bill increases the penalty for this provision to a class D felony. It is currently a class D felony if the defendant, while driving while intoxicated, acts with

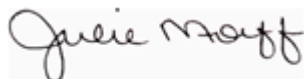
criminal negligence to cause serious physical injury to another person. The bill increases the penalty for this provision to a class C felony. If the defendant is driving while intoxicated and acts with criminal negligence to cause the death of another person, the defendant is guilty of a class C felony currently, but this bill increases the penalty for that to a class B felony. If the defendant, while driving while intoxicated, acts with criminal negligence to cause the death of two or more persons or to cause the death of any person while the defendant has a blood alcohol content (BAC) of at least .15 by weight of alcohol, or the defendant has been previously been found guilty as a habitual offender or of driving while intoxicated and causing the death of another person, the defendant will be guilty of a class A felony.

A person found guilty of driving while intoxicated and acting with criminal negligence to cause the death of another person will not be eligible for probation or parole until the person has served at least five years' imprisonment. If the person has been found guilty of acting with criminal negligence, while driving while intoxicated, to cause the death of two or more persons or to cause the death of any person while the defendant has a BAC of at least .15 by weight of alcohol, the person will not be eligible for probation or parole until the person has served at least 10 years' imprisonment.

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 Corrections
Department of Revenue
Missouri Highway Patrol
Missouri Department of Transportation
Office of the State Courts Administrator
Office of the State Public Defender
Missouri Office of Prosecution Services



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February 4, 2025



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