

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4942H.011
 Bill No.: HB 2321
 Subject: Crimes and Punishment; Criminal Procedure; Science and Technology; Internet and E-Mail
 Type: Original
 Date: February 16, 2026

Bill Summary: This proposal establishes the "AI-Generated Content Accountability and Privacy Protection Act of 2026".

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue*	(\$64,884 to Unknown)	(\$158,836 to Unknown)	(\$185,158 to Unknown)
Total Estimated Net Effect on General Revenue	(\$64,884 to Unknown)	(\$158,836 to Unknown)	(\$185,158 to Unknown)

*DOC notes that current capacity will be met by July 2029 (FY 2030) or potentially much sooner. Therefore, Oversight has made the decision to reflect the marginal cost of incarceration up to an unknown cost if DOC needs to add staff and/or rehabilitate, expand or construct additional capacity. Oversight assumes the unknown cost has the potential to exceed \$250,000.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
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 2027	FY 2028	FY 2029
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Total Estimated Net Effect on FTE	0 FTE	0 FTE	0 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 2027	FY 2028	FY 2029
Local Government*	Unknown	Unknown	Unknown

*Unknown fines/penalties

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Office of Prosecution Services** did not respond to **Oversight's** request for fiscal impact for this proposal.

§1.2052 - AI-Generated Content Accountability and Privacy Protection Act of 2026

Officials from the **Department of Corrections (DOC)** state §1.2052 creates an unclassified offense when a person knowingly publishes, distributes, or makes publicly available any algorithmically generated or altered content that represents a depicted individual without the consent of that individual. This requires the person to serve imprisonment for not more than two years, along with the possibility of a fine. If it occurs through an online public communication platform, it also requires the person to serve imprisonment for not more than two years, and they may incur a larger fine.

This legislation also creates an unclassified offense when a person knowingly creates, publishes, or distributes any algorithmically generated or altered content of a sexual or pornographic nature without the consent of a depicted individual. This has a term of not more than two years imprisonment, along with the possibility of a fine. If it occurs through an online public communication platform, it has a term of not more than three years imprisonment. If it results in serious harm to the dignity, reputation or safety of the depicted individual, it is not more than five years imprisonment.

Given this information, the DOC is estimating a possible fiscal impact equivalent to four nonviolent class E felonies and one nonviolent class D felony. Class E felonies were chosen as a class E felony carries a maximum term of four years or less, which is in-line with an offense with a term not exceeding more than two years imprisonment, and an offense with a term not exceeding more than three years imprisonment. A class D felony was chosen as it carries a maximum term of imprisonment exceeding four years but less than ten years, which is in-line with a felony punishable by imprisonment of not more than five years.

For each new nonviolent class E felony, the DOC 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, 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 DOC is estimated to be 8 additional offenders in prison and 28 additional offenders on field supervision by FY 2029.

For each new nonviolent class D felony, the DOC estimates three people could be sentenced to prison and five to probation. The average sentence for a nonviolent class D felony offense is 5

years, with 1.7 years to first release. The remaining 2.2 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the DOC is estimated to be 8 additional offenders in prison and 16 additional offenders on field supervision by FY 2029.

For each new nonviolent class D felony, the DOC estimates three people could be sentenced to prison and five to probation. The average sentence for a nonviolent class D felony offense is 5 years, with 1.7 years to first release. The remaining 2.2 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the DOC is estimated to be 8 additional offenders in prison and 16 additional offenders on field supervision by FY 2029.

Cumulative Impact:

The cumulative impact on the DOC is estimated to be 16 additional offenders in prison and 44 additional offenders on field supervision by FY 2029.

	# to prison	Cost per year	Total Costs for prison	Change in & parole officers	Total cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	7	(\$11,123)	(\$64,884)	0	\$0	13	(\$64,884)
Year 2	14	(\$11,123)	(\$158,836)	0	\$0	26	(\$158,836)
Year 3	16	(\$11,123)	(\$185,158)	0	\$0	44	(\$185,158)
Year 4	16	(\$11,123)	(\$188,861)	0	\$0	47	(\$188,861)
Year 5	16	(\$11,123)	(\$192,638)	0	\$0	50	(\$192,638)
Year 6	16	(\$11,123)	(\$196,491)	0	\$0	50	(\$196,491)
Year 7	16	(\$11,123)	(\$200,421)	0	\$0	50	(\$200,421)
Year 8	16	(\$11,123)	(\$204,429)	0	\$0	50	(\$204,429)
Year 9	16	(\$11,123)	(\$208,518)	0	\$0	50	(\$208,518)
Year 10	16	(\$11,123)	(\$212,688)	0	\$0	50	(\$212,688)

The DOC will assume a marginal cost (multiplied by number of offenders) for any projected increase or decrease in the incarcerated population. Marginal cost is \$30.47 per day or an annual cost of \$11,123 per offender which includes costs such as medical, food, wages and operational E&E. The unknown amount is a result of the uncertainty in the growth of the underlying offender population. The impact of any new legislation combined with the growth of the underlying population could result in the tiered approach below in order to meet the population demands.

1. Fully staffing our current capacity (27,368) which is habitable, but they do not have the staffing resources for all bed space.
2. Rehabilitating current space that is not currently habitable and obtaining staffing resources for that space (requires capital improvements).
3. Expanding new capacity by adding housing units or wings to existing prisons and obtaining staffing resources for that space (requires capital improvements).
4. Constructing a new prison and obtaining staffing resources. Based on current construction projects in other Midwest states, the department estimates the cost of constructing a new 1,500-bed maximum security prison at approximately \$825 million to \$900 million plus annual operating costs of approximately \$50 million (requires capital improvements).

The DOC's population projections indicate current physical capacity will be met by July 2029; however recent trends indicate that capacity could be met much sooner. Should new construction be the result of the increasing offender population, the full cost per day per offender would be used which is \$106.96 or an annual cost of \$39,040. This includes all items in the marginal cost calculation plus fringe, personal service, utilities, etc.

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.

* 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.

Oversight has no information to the contrary. Therefore, Oversight will present the fiscal impact of this proposal as provided by DOC.

Officials from the **Department of Public Safety – Missouri Highway Patrol (MHP)** state the Patrol uses Artificial Intelligence (AI) for development of email, documents, and training materials. The Patrol will also be using AI for redaction and other applications. Preliminary estimates would be that the Patrol processes over 1,000,000 videos, several million documents, emails, and other files each year. Each of these files could need the watermark since they may be manipulated by an AI tool.

To add watermarks to each of those they estimate around \$1.00 per watermark, which would have a cost exceeding \$2,000,000. This could also entail multimedia watermark software

needing to be purchased or developed. This cost would be \$100,000 or more. Additionally, it would require at least 2 FTEs to track, add and log the work.

Oversight reviewed the proposed legislation and did not discern language in the proposal that could require the MHP to watermark nearly every document prior to distribution. The provisions of §1.2052.5 provide that this section does not apply to content that has a clear and conspicuous notice that it is artificially generated or altered, does not cause material harm, or is used for bona fide purposes. Therefore, Oversight assumes the MHP would not require the resources requested in their fiscal note response. However, if the provisions of this proposal are interpreted differently, the MHP may request additional funding through the appropriations process.

Officials from the **Office of the State Public Defender (SPD)** state per the National Public Defense Workload Study, the new charges contemplated by this new law would take approximately thirty-five hours of SPD work in each case filed 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 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, 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. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation costs.

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 **Department of Commerce and Insurance, Office of the State Courts Administrator, University of Missouri System, Northwest Missouri State University,** and the **University of Central Missouri** 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 notes provisions of §1.2052.3-4 provide for potential imprisonment and/or fines ranging from \$20,000 to \$110,000 for knowingly publishing, distributing or making publicly available any algorithmically generated or altered content that represents a depicted individual

without the consent of that individual, including content of a sexual or pornographic nature. It is unknown the amount of fines that may be collected.

Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fine vary widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive Unknown fiscal impact to local school districts for fines and penalties collected. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Below are examples of some of the state and local funds which court costs are distributed to.

	Fee Amount
Basic Civil Legal Services Fund	\$8.00
Clerk Fee	\$15.00 (\$12 State/\$3 County)
County Fee	\$25.00
State Court Automation Fund	\$7.00
Crime Victims' Compensation Fund	\$7.50
DNA Profiling Analysis Fund	\$15.00
Peace Officer Standards and Training (POST) Fund	\$1.00
Motorcycle Safety Trust Fund	\$1.00
Brain Injury Fund	\$2.00
Independent Living Center Fund	\$1.00
Sheriff's Fee	\$10.00 (County)
Prosecuting Attorney and Circuit Attorney Training Fund	\$5.00
Prosecuting Attorney Training Fund	\$5.00 (\$2.50 State/\$2.50 County)
Spinal Cord Injury Fund	\$2.00

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other colleges and universities were requested to respond to this proposed legislation but did not. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
GENERAL REVENUE			
<u>Cost</u> – DOC (§1.2052) Increase in incarceration and parole costs p.3-5	(\$64,884 to Unknown)	(\$158,836 to Unknown)	(\$185,158 to Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$64,884 to Unknown)</u>	<u>(\$158,836 to Unknown)</u>	<u>(\$185,158 to Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> – Schools (§1.2052) Fines p.7	Unknown	Unknown	Unknown
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT – Small Business

This proposal may impact small business that make available certain AI generated content available in violation of the provisions of this proposal.

FISCAL DESCRIPTION

This bill establishes the "AI-Generated Content Accountability and Privacy Protection Act of 2026".

Any person who knowingly publishes, distributes, or makes publicly available any "algorithmically generated or altered content", as that term is defined in the bill, that represents a depicted individual without the individual's consent will be subject to: (1) A prison term of up to two years; or (2) A fine of up to \$20,000; or both.

If the violation described above occurs through an "online public communication platform", as that term is defined in the bill, the person will be subject to: (1) A prison term of up to two years; or (2) A fine of up to \$50,000; or both.

Any person who knowingly creates, publishes, or distributes any algorithmically generated or altered content of a sexual or pornographic nature without the consent of a depicted individual will be subject to: (1) A prison term of up to two years; or (2) A fine of up to \$65,000; or both.

If the violation described above occurs through an online public communication platform the person will be subject to: (1) A prison term of up to three years; or (2) A fine of up to \$80,000; or both.

If the violation described above involves the distribution of an algorithmically generated or altered content that is sexual or pornographic in nature and results in serious harm to the dignity, reputation, or safety of the depicted individual, the person will be subject to: (1) A prison term of up to five years; or (2) A fine of up to \$110,000; or both.

The provisions of this bill will not apply to:

- (1) Content that is clearly artistic, parodic, satirical, or intended for legitimate public interest or educational purposes;
- (2) Synthetic content created or shared without intent to harm and that does not cause material injury to the dignity, reputation, or privacy of the person depicted; or
- (3) Content used for bona fide research, journalism, or technological testing.

If an age verification system is used, such a system must comply with certain regulations, as described in the bill.

The Attorney General must submit a report to the General Assembly on or before August 28, 2028, assessing certain provisions, as described in the bill.

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 Commerce and Insurance
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Office of the State Courts Administrator
Office of the State Public Defender

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University of Central Missouri



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