

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6229H.02C
 Bill No.: HCS for HB 2708
 Subject: Prisons and Jails; Crimes and Punishment; Department of Corrections
 Type: Original
 Date: March 17, 2026

Bill Summary: This proposal modifies the offense of possession of unlawful items in a prison or jail.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue*	(\$27,808 to Unknown)	(\$68,073 to Unknown)	(\$92,579 to Unknown)
Total Estimated Net Effect on General Revenue	(\$27,808 to Unknown)	(\$68,073 to Unknown)	(\$92,579 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	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 2027	FY 2028	FY 2029
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

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

§221.111 – Unlawful Items in a Prison or Jail

Officials from the **Department of Corrections (DOC)** state this proposal modifies the offense of possession of unlawful items in a prison or jail.

Section 221.111 expands the offense of possession of unlawful items in a prison or jail to include any unauthorized portable electronic communication device. The penalty for this offense is a class D felony.

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 D felony.

For each new nonviolent class D felony, the department 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 department is estimated to be 8 additional offenders in prison and 16 additional offenders on field supervision by FY 2029.

	# 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	3	(\$11,123)	(\$27,808)	0	\$0	5	(\$27,808)
Year 2	6	(\$11,123)	(\$68,073)	0	\$0	10	(\$68,073)
Year 3	8	(\$11,123)	(\$92,579)	0	\$0	16	(\$92,579)
Year 4	8	(\$11,123)	(\$94,431)	0	\$0	19	(\$94,431)
Year 5	8	(\$11,123)	(\$96,319)	0	\$0	22	(\$96,319)
Year 6	8	(\$11,123)	(\$98,246)	0	\$0	22	(\$98,246)
Year 7	8	(\$11,123)	(\$100,210)	0	\$0	22	(\$100,210)
Year 8	8	(\$11,123)	(\$102,215)	0	\$0	22	(\$102,215)
Year 9	8	(\$11,123)	(\$104,259)	0	\$0	22	(\$104,259)
Year 10	8	(\$11,123)	(\$106,344)	0	\$0	22	(\$106,344)

The department 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 the current capacity (27,368) which is habitable, but DOC does 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 department'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.

In response to a previous version, officials from the **Office of the State Public Defender (SPD)** stated per the National Public Defense Workload Study, the new charge contemplated by the change to Section 221.111 would take approximately thirty-five 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 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 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 a previous version, officials from the **Office of Attorney General (AGO)** assumed 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 Public Safety - Missouri Highway Patrol, Office of the State Courts Administrator, Phelps County Sheriff, Branson Police Department, Kansas City Police Department, and 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 that we have received from state agencies and political subdivisions; however, other local law enforcement 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 – DOC (§221.111) Increased incarceration costs p.3-4</u>	(\$27,808 to <u>Unknown</u>)	(\$68,073 to <u>Unknown</u>)	(\$92,579 to <u>Unknown</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE	(\$27,808 to <u>Unknown</u>)	(\$68,073 to <u>Unknown</u>)	(\$92,579 to <u>Unknown</u>)

<u>FISCAL IMPACT – Local Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

POSSESSION OF UNLAWFUL ITEMS IN A PRISON OR JAIL

Currently, it is illegal to knowingly deliver, attempt to deliver, possess, deposit, or conceal certain items in or about the premises of any correctional center or jail.

This bill adds to the list of prohibited items unauthorized portable electronic communication devices that are capable of being used to initiate, receive, store, or view communication, information, images, or data. The electronic communication devices include, but are not limited to, cellular telephones, portable telephones, text messaging devices, personal digital assistants, pagers, broadband personal communication devices, and electronic devices with mobile data access. A violation involving an unauthorized portable electronic communication device will be a class D felony.

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

L.R. No. 6229H.02C
Bill No. HCS for HB 2708
Page 7 of 7
March 17, 2026

Office of the State Courts Administrator
Office of the State Public Defender
Phelps County Sheriff
Branson Police Department
Kansas City Police Department
St. Louis County Police Department



Julie Morff
Director
March 17, 2026



Jessica Harris
Assistant Director
March 17, 2026