

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5357-03  
Bill No.: SCS for HB 1633  
Subject: Courts; Crimes and Punishment; Auditor, State; Evidence; Judges; Juries; Victims of Crime; Public Officers; Lobbying; Drugs and Controlled Substances; Sexual Offenses; Alcohol; Boats and Watercraft; Drunk Driving/Boating; Fees; Insurance - Automobile; Civil Penalties; Secretary of State  
Type: Original  
Date: May 8, 2018

Bill Summary: This proposal modifies certain provisions relating to criminal offenses.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>  |                   |                   |                   |                             |
|--|-------------------|-------------------|-------------------|-----------------------------|
| FUND AFFECTED  | FY 2019           | FY 2020           | FY 2021           | Fully Implemented (FY 2023) |
| General Revenue                                      | (\$15,515)        | (\$37,981)        | (\$56,173)        | (\$1,301,194)               |
| <b>Total Estimated Net Effect on General Revenue</b> | <b>(\$15,515)</b> | <b>(\$37,981)</b> | <b>(\$56,173)</b> | <b>(\$1,301,194)</b>        |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>       |            |            |            |                             |
|--|------------|------------|------------|-----------------------------|
| FUND AFFECTED  | FY 2019    | FY 2020    | FY 2021    | Fully Implemented (FY 2023) |
|  |            |            |            |                             |
|  |            |            |            |                             |
| <b>Total Estimated Net Effect on Other State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b>                  |

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 14 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                  |                |                |                |                                    |
|---|----------------|----------------|----------------|------------------------------------|
| <b>FUND AFFECTED</b>  | <b>FY 2019</b> | <b>FY 2020</b> | <b>FY 2021</b> | <b>Fully Implemented (FY 2023)</b> |
|   |                |                |                |                                    |
|   |                |                |                |                                    |
| <b>Total Estimated Net Effect on <u>All</u> Federal Funds</b> | <b>\$0</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 2019</b> | <b>FY 2020</b> | <b>FY 2021</b> | <b>Fully Implemented (FY 2023)</b> |
|   |                |                |                |                                    |
|   |                |                |                |                                    |
| <b>Total Estimated Net Effect on FTE</b>                  | <b>0</b>       | <b>0</b>       | <b>0</b>       | <b>0</b>                           |

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |                |                |                |                                    |
|--|----------------|----------------|----------------|------------------------------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2019</b> | <b>FY 2020</b> | <b>FY 2021</b> | <b>Fully Implemented (FY 2023)</b> |
| <b>Local Government</b>                    | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>                         |

## FISCAL ANALYSIS

### ASSUMPTION

#### §§105.478, 531.070, 576.040, 576.042, 595.219

Officials at the **Missouri Ethics Commission (MEC)** assume no fiscal impact from this proposal. However, should there be a significant increase in violations, the MEC may seek additional appropriations in future budget requests.

Officials at the **Department of Corrections (DOC)** assume the proposed section 105.478, creates a new Class A misdemeanor if official misconduct involves more than \$750 in goods or services. Because misdemeanors are not under the jurisdiction of the (DOC), this section is expected to have no impact on the department.

Section 576.040 is significantly revised. The penalty for official misconduct is returned to a class A misdemeanor (as found in current law). The revision further removes the distinction of first and second degree misconduct. Because misdemeanors are not under the jurisdiction of the Department of Corrections (DOC), this section is expected to have no impact on the department.

Section 595.219 proposes monetary restitution as a permissible penalty if found guilty of official misconduct. The revision further removes the distinction of first and second degree misconduct. No impact on DOC is expected from passage of this section.

In response to similar legislation from this year, SS #2 for SB 552, officials at the **Office of the Secretary of State** and the **Department of Public Safety's Missouri Highway Patrol** each assumed no fiscal impact to their respective agencies from this proposal.

In response to similar legislation from this year, SS #2 for SB 552, officials at the **Kansas City Board of Election Commission** assumed no fiscal impact from this proposal.

In response to similar legislation from this year, SS #2 for SB 552, officials at **Boone County**, the **Boone County Sheriff's Department**, the **St. Louis County Police Department** and the **St. Louis County Board of Election Commissioners** each assumed no fiscal impact to their respective entities from this proposal.

In response to similar legislation from this year, SS #2 for SB 552, officials at the **Greene County Sheriff's Department** assumed an unknown impact for this proposal.

ASSUMPTION (continued)

In response to similar legislation from this year, SS #2 for SB 552, officials at the **Callaway County Commission** assumed an unknown impact for this proposal.

**Oversight** inquired the Callaway County Commission to provide a further explanation to their response and it could not be provided at this time. Oversight assumes this proposal allows law enforcement agencies and prosecutors to request an audit by the State Auditor, modifies the punishment for violating lobbying and conflict of interest provisions and the offense of official misconduct and would have no direct fiscal impact.

§§303.025, 400.9-501, 488.029, 556.061, 570.095, 577.001, 577.010, 577.013, 577.014, 579.020, 579.065, 579.068, 595.045

Officials from the **Department of Corrections (DOC)** assume section 303.025 changes the penalty by deleting jail time/fines and replacing that penalty with a class C misdemeanor, which the department does not supervise. Therefore, no impact on DOC is expected from passage of this section.

Sections 556.061, 577.010, 577.013 and 577.014 add clarification to the dangerous felon definition as it applies to "habitual offender" or "habitual boating offender". No impact on DOC is expected from passage of these sections.

Section 570.095 repeals the current class E felony for filing false documents and establishes a class D felony for the first offense and in the conditions of aggravating circumstances a class C felony. The language in the newly created section is more specific than that in the current statute, and allows for a Class D felony for first time offenders, with an enhancement to class C for repeat offenders or offenses against certain government officials, police, fire fighters, etc. While this change makes the legislation more clear, it does not appear that any new actions would be considered a crime under these changes.

The current legislation found in RSMo 400.9-501 was modified in 2014 to introduce the criminal penalty. No charge code was ever created for this statute, and the legislation is still quite new, meaning that good data for the current impact is unknown. Thus, this will be treated as a new offense; further, as this offense is expected to be quite rare, only the D felony version will be considered. The standard response for a new non-violent D felony is found below. Under this situation, 3 individuals will be sentenced to prison and 5 to probation in each fiscal year. For incarcerated individuals, the average sentence is 4.8 years, with a total of 2.9 years in prison and 1.9 years on parole; the probationers serve a 3.0 year term.

ASSUMPTION (continued)

| Total Impact of a New Class D Non-Violent Offense |            |             |             |             |             |             |             |             |             |             |
|---|------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
|   | FY2018     | FY2019      | FY2020      | FY2021      | FY2022      | FY2023      | FY2024      | FY2025      | FY2026      | FY2027      |
| <b>New</b>  |            |             |             |             |             |             |             |             |             |             |
| Admissions  | 3.0        | 3.0         | 3.0         | 3.0         | 3.0         | 3.0         | 3.0         | 3.0         | 3.0         | 3.0         |
| Probations  | 5.0        | 5.0         | 5.0         | 5.0         | 5.0         | 5.0         | 5.0         | 5.0         | 5.0         | 5.0         |
| <b>Cumulative Populations</b>                     |            |             |             |             |             |             |             |             |             |             |
| Prison  | 3.0        | 6.0         | 8.7         | 8.7         | 8.7         | 8.7         | 8.7         | 8.7         | 8.7         | 8.7         |
| Parole  |            |             | 0.3         | 3.3         | 5.7         | 5.7         | 5.7         | 5.7         | 5.7         | 5.7         |
| Probation   | 5.0        | 10.0        | 15.0        | 15.0        | 15.0        | 15.0        | 15.0        | 15.0        | 15.0        | 15.0        |
| <b>Impact</b>                                     |            |             |             |             |             |             |             |             |             |             |
| Prison Population                                 | 3.0        | 6.0         | 8.7         | 8.7         | 8.7         | 8.7         | 8.7         | 8.7         | 8.7         | 8.7         |
| Field Population                                  | 5.0        | 10.0        | 15.3        | 18.3        | 20.7        | 20.7        | 20.7        | 20.7        | 20.7        | 20.7        |
| <b>Population Change</b>                          | <b>8.0</b> | <b>16.0</b> | <b>24.0</b> | <b>27.0</b> | <b>29.4</b> | <b>29.4</b> | <b>29.4</b> | <b>29.4</b> | <b>29.4</b> | <b>29.4</b> |

**Thus, this legislation is estimated to increase the prison population by 8.7 individuals by FY2020, and increase the field population to 20.7 by FY2022.**

Thus, this legislation is estimated to increase the prison population by 8.7 individuals by FY2020, and increase the field population to 20.7 by FY2022.

Section 579.020 proposes to make the distribution of a controlled substance that contains heroin a class B felony, which is an increase from a Class C felony. In FY17, the average sentence for the distribution of a controlled substance (as a class C felony) was 6.4 years and the time to first release was 2.1 years. If the offense for distributing heroin became a class B felony the average sentence would be 8.3 years and the time to first release would be 2.7 years. The impact includes an estimate of 40% of the sentence after the first release to parole for the incarceration of parole returns.

The impact of increasing the felony class is an increase in the prison and parole populations because of the longer sentence and the longer time served.

Heroin New Admissions at Class C

|                               | FY2019     | FY2020     | FY2021     | FY2022     | FY2023     | FY2024      | FY2025      | FY2026      | FY2027      | FY2028      |
|-------------------------------|------------|------------|------------|------------|------------|-------------|-------------|-------------|-------------|-------------|
| <b>New</b>                    |            |            |            |            |            |             |             |             |             |             |
| Admissions                    | 168        | 168        | 168        | 168        | 168        | 168         | 168         | 168         | 168         | 168         |
| Probations                    | 0          | 0          | 0          | 0          | 0          | 0           | 0           | 0           | 0           | 0           |
| <b>Cumulative Populations</b> |            |            |            |            |            |             |             |             |             |             |
| Prison                        | 168        | 336        | 504        | 672        | 840        | 1008        | 1176        | 1344        | 1512        | 1680        |
| Parole                        | 0          | 0          | 0          | 34         | 102        | 170         | 237         | 304         | 371         | 437         |
| Probation                     | 0          | 0          | 0          | 0          | 0          | 0           | 0           | 0           | 0           | 0           |
| <b>Impact</b>                 |            |            |            |            |            |             |             |             |             |             |
| Prison Population             | 168        | 336        | 504        | 672        | 840        | 1008        | 1176        | 1344        | 1512        | 1680        |
| Field Population              | 0          | 0          | 0          | 34         | 102        | 170         | 237         | 304         | 371         | 437         |
| <b>Population Change</b>      | <b>168</b> | <b>336</b> | <b>504</b> | <b>672</b> | <b>840</b> | <b>1008</b> | <b>1176</b> | <b>1344</b> | <b>1512</b> | <b>1680</b> |

ASSUMPTION (continued)

In FY2017, it is estimated that 168 offenders were admitted to serve a term sentence for heroin distribution and, with the above sentencing statistics for the class C felony, this will result in a prison population of 638 and a parole population of 437. If the felony class was increased to a B, the prison population would increase to 823 and the parole population to 571.

Heroin New Admissions as Class B

|                               | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 | FY2028 |
|-------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| <b>New</b>                    |        |        |        |        |        |        |        |        |        |        |
| Admissions                    | 168    | 168    | 168    | 168    | 168    | 168    | 168    | 168    | 168    | 168    |
| Probations                    | X      | X      | X      | X      | X      | X      | X      | X      | X      | X      |
| <b>Cumulative Populations</b> |        |        |        |        |        |        |        |        |        |        |
| Prison                        | 168    | 336    | 504    | 672    | 823    | 823    | 823    | 823    | 823    | 823    |
| Parole                        | X      | X      | X      | X      | 17     | 185    | 359    | 521    | 571    | 571    |
| Probation                     | X      | X      | X      | X      | X      | X      | X      | X      | X      | X      |
| <b>Impact</b>                 |        |        |        |        |        |        |        |        |        |        |
| Prison Population             | 168    | 336    | 504    | 672    | 823    | 823    | 823    | 823    | 823    | 823    |
| Parole Population             |        |        |        |        | 17     | 185    | 359    | 521    | 571    | 571    |
| Population Change             | 168    | 336    | 504    | 672    | 840    | 1,008  | 1,176  | 1,344  | 1,394  | 1,394  |

The increase would not occur until FY2022, after the time when the offenders would be released if sentenced to the class C offense. Initially, there would be a reduction in the parole population because offenders would be in prison longer, but by FY2027 the prison population will have increased by 185 and the parole population by 134.

Net Impact of Increasing Felony Class

|                   | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 | FY2028 |
|-------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Prison Population | -      | -      | -      | 34     | 185    | 185    | 185    | 185    | 185    | 185    |
| Parole Population | -      | -      | -      | -34    | -185   | -185   | -84    | 84     | 134    | 134    |

Below is the combined impact from all sections affecting the department's population:

|                        | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 | FY2028 |
|------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Felony D Prison        | 3      | 6      | 8.7    | 8.7    | 8.7    | 8.7    | 8.7    | 8.7    | 8.7    | 8.7    |
| Felony D Probation     | 5      | 10     | 15.3   | 18.3   | 20.7   | 20.7   | 20.7   | 20.7   | 20.7   | 20.7   |
| Net Felony B Prison    | 0      | 0      | 0      | 34     | 185    | 185    | 185    | 185    | 185    | 185    |
| Net Felony B Probation | 0      | 0      | 0      | -34    | -185   | -185   | -84    | 84     | 134    | 134    |
| <b>Total Combined</b>  |        |        |        |        |        |        |        |        |        |        |
| Prison                 | 3      | 6      | 8.7    | 42.7   | 193.7  | 193.7  | 193.7  | 193.7  | 193.7  | 193.7  |
| Probation              | 5      | 10     | 15.3   | -15.7  | -164.3 | -164.3 | -63.3  | 104.7  | 154.7  | 154.7  |

ASSUMPTION (continued)

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders 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.

The DOC cost of incarceration is \$17.003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

ASSUMPTION (continued)

The DOC would assume this legislation will result in long term cost as indicated in the chart below.

|         | # to<br>prison | Cost per<br>year | Total Costs<br>for <b>prison</b> | # to<br>probation<br>& parole | Fewer<br>P&P<br>officers<br>from<br>reduction | Total cost<br>for<br><b>probation<br/>and parole</b> | Grand Total -<br>Prison and<br>Probation<br>(includes and<br>2% inflation) |
|---------|----------------|------------------|----------------------------------|-------------------------------|---|--|--|
| Year 1  | 3              | (\$6,206)        | (\$15,515)                       | 5                             | none  | \$0  | (\$15,515)   |
| Year 2  | 6.0            | (\$6,206)        | (\$37,981)                       | 10                            | none  | \$0  | (\$37,981)   |
| Year 3  | 8.7            | (\$6,206)        | (\$56,173)                       | 15                            | none  | \$0  | (\$56,173)   |
| Year 4  | 42.7           | (\$6,206)        | (\$281,216)                      | (16)                          | none  | \$0  | (\$281,216)  |
| Year 5  | 193.7          | (\$6,206)        | (\$1,301,194)                    | (164)                         | none  | \$0  | (\$1,301,194)  |
| Year 6  | 193.7          | (\$6,206)        | (\$1,327,218)                    | (164)                         | none  | \$0  | (\$1,327,218)  |
| Year 7  | 193.7          | (\$6,206)        | (\$1,353,762)                    | (63)                          | none  | \$0  | (\$1,353,762)  |
| Year 8  | 193.7          | (\$6,206)        | (\$1,380,838)                    | 105                           | none  | \$0  | (\$1,380,838)  |
| Year 9  | 193.7          | (\$6,206)        | (\$1,408,454)                    | 155                           | none  | \$0  | (\$1,408,454)  |
| Year 10 | 193.7          | (\$6,206)        | (\$1,436,623)                    | 155                           | none  | \$0  | (\$1,436,623)  |

In response to similar legislation from this year, SCS for HB 1769, officials from the **Office of the Secretary of State (SOS)** assumed 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 \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, 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 our core budget. Therefore, 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.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

ASSUMPTION (continued)

Officials from the **Office of the State Public Defender (SPD)** assume for the purpose of the proposed legislation, and as a result of excessive caseloads, the Office of the State Public Defender cannot assume existing staff will provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime of intentionally filing a fraudulent financing statement or any financing statement with the Secretary of State with the intent to harass or defraud any other person. This offense would be a new Class D Felony, unless the offense meets other circumstances, then it becomes a new Class C Felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In addition, this proposed legislation enhances penalties for failure to provide financial responsibility, escalating to a new Class C Misdemeanor.

While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Office of the State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

In response to similar legislation from this year, SCS for HB 1769, officials from the **Department of Public Safety-Capitol Police, Department of Public Safety-Office of the Director** and the **Department of Public Safety-Missouri State Highway Patrol** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation from this year, SCS for HB 1769, officials from the **St. Louis County Election Board** assumed the proposal will have no fiscal impact.

In response to similar legislation from this year, SCS for HB 1769, officials from the **Missouri State University** assumed the proposal will have no fiscal impact.

In response to similar legislation from this year, SCS for HB 1769, officials from the **Summersville R2 School District** assumed the proposal will have no fiscal impact on their organization.

ASSUMPTION (continued)

§§556.036, 556.037

Officials at the **Department of Corrections (DOC)** assume section 556.036 seeks to modify the existing statute by removing the statute of limitations for childhood sexual offenses. A thirty year limitation is removed for the prosecutions of unlawful sexual offenses and child abuse does not have any time limitations for prosecution. If evidence of the crime and successful prosecution has not occurred within the thirty year time period, unlimited time frames will not change those facts in many cases. No new criminal penalties are created in this bill, therefore, no impact on DOC is expected from passage of this section.

In response to similar legislation from this year, SB 655, officials from the **Department of Public Safety - Missouri Highway Patrol** assumed the proposal would not fiscally impact their agency.

In response to similar legislation from this year, SB 655, officials from the **Office of State Public Defender (SPD)** stated while the number of new cases received due to removing the statute of limitations on abuse or neglect of a child may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

§556.046

Officials at the **Office of the State Public Defender** assume no fiscal impact from this proposal.

Bill as a Whole

Officials at the **Office of the State Courts Administrator** assume 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 at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

ASSUMPTION (continued)

Officials at the **Department of Revenue**, the **Department of Conservation**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Office of Administration’s Division of General Services**, the **Department of Labor and Industrial Relations**, the **Missouri Department of Transportation**, the **Office of State Auditor** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **City of Kansas City**, the **Jackson County Board of Election Commission**, the **Platte County Board of Election Commission**, the **Springfield Police Department**, the **Joplin Police Department**, the **St. Louis County Department of Justice Services**, the **University of Missouri System**, the **State Technical College of Missouri**, the **Missouri Western State University** and the **Wellsville-Middletown R-1 School District** each assume no fiscal impact to their respective entities from this proposal.

| <u>FISCAL IMPACT -</u><br><u>State Government</u>                               | FY 2019<br>(10 Mo.)      | FY 2020                  | FY 2021                  | Fully<br>Implemented<br>(FY 2023)     |
|---|--------------------------|--------------------------|--------------------------|---------------------------------------|
| <b>GENERAL<br/>REVENUE FUND</b>   |                          |                          |                          |                                       |
| <u>Costs - DOC</u><br>increased prison<br>costs from increased<br>penalties p.8 | <u>(\$15,515)</u>        | <u>(\$37,981)</u>        | <u>(\$56,173)</u>        | <u>(\$1,301,194)</u>                  |
| <b>ESTIMATED NET<br/>EFFECT TO THE<br/>GENERAL<br/>REVENUE FUND</b>             | <b><u>(\$15,515)</u></b> | <b><u>(\$37,981)</u></b> | <b><u>(\$56,173)</u></b> | <b><u>(\$1,301,194)</u></b>           |
| <br><u>FISCAL IMPACT -</u><br><u>Local Government</u>                           | <br>FY 2019<br>(10 Mo.)  | <br>FY 2020              | <br>FY 2021              | <br>Fully<br>Implemented<br>(FY 2023) |
|   | <b><u>\$0</u></b>        | <b><u>\$0</u></b>        | <b><u>\$0</u></b>        | <b><u>\$0</u></b>                     |

FISCAL IMPACT - Small Business

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

## FISCAL DESCRIPTION

§§303.025, 400.9-501, 488.029, 556.061, 570.095, 577.001, 577.010, 577.013, 577.014, 579.020, 579.065, 579.068, 595.045

This bill creates the offense of filing a false document, which is committed if, with intent to defraud, deceive, harass, alarm, or negatively impact financially, a person files, causes to be filed, or attempts to file, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, or transferred to the Secretary of State or his or her designee, any county recorder of deeds or his or her designee, any municipal, county, district, or state government entity or office, or any credit bureau or financial institution specified documents. For the first offense, filing a false document is a class D felony. Filing false documents is a class C felony in certain specified instances. Any person who is found guilty of committing such offense will be ordered to make full restitution to any person or entity that has sustained any actual losses as a result of the commission of such offense.

The bill specifies that a system must be created, by January 1, 2019, in which suspicious filings are logged, and outlines the process for petitioning the court when a person has probable cause to believe a filing is fraudulent.

This bill specifies that a court shall be obligated to charge the jury with respect to an included offense only if it is established by proof of the same or less than all the elements required to establish the commission of the offense charged, there is a rational basis in the evidence for a verdict acquitting the person of the offense charged and convicting the person of the included offense, and either party requests the court to charge the jury with respect to a specific included offense.

Failure of the defendant or defendant's counsel to request the court to charge the jury with respect to a specific included offense shall not be a basis for plain-error review on direct appeal or post-conviction relief. It shall be the trial court's duty to determine if a rational basis in the evidence for a verdict exists.

Currently, the court shall be obligated to instruct the jury with respect to a particular included offense only if there is a basis in the evidence for acquitting the person of the immediately higher included offense and there is a basis in the evidence for convicting the person of that particular included offense, the bill repeals this language.

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  
Office of the Secretary of State  
Office of the State Public Defender  
Office of State Courts Administrator  
Office of Prosecution Services  
Attorney General's Office  
Department of Insurance, Financial Institutions and Professional Registration  
Missouri Department of Conservation  
Department of Public Safety-Capitol Police  
Office of Administration-General Services  
Department of Public Safety-Office of the Director  
Department of Transportation  
Department of Revenue  
Department of Public Safety-Missouri State Highway Patrol  
Department of Labor and Industrial Relations  
Missouri Ethics Commission  
Office of State Auditor  
St. Louis County Election Board  
Jackson County Election Board  
Platte County Election Board  
City of Kansas City  
Missouri State University  
Missouri Western State University  
Summersville R2 School District  
Springfield Police Department  
Joplin Police Department  
St. Louis County Department of Justice Services  
University of Missouri System  
State Technical College of Missouri  
Wellsville-Middletown R-1 School District

SOURCES OF INFORMATION (continued)

Boone County  
Boone County Sheriffs Department  
St. Louis County Police Department  
Greene County Sheriff's Department  
Callaway County Commission

Ross Strobe

A handwritten signature in black ink, appearing to read "Ross Strobe", with a stylized flourish at the end.

Acting Director  
May 8, 2018