

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3225-02  
Bill No.: HCS for HB 1332  
Subject: Crimes and Punishment; Criminal Procedure  
Type: Original  
Date: February 24, 2020

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Bill Summary: This proposal modifies the offense of tampering with electronic monitoring equipment.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(Less than \$115,965)	(Less than \$139,082)	(Less than \$153,152)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Less than \$115,965)</b>	<b>(Less than \$139,082)</b>	<b>(Less than \$153,152)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>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>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on FTE</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 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Local Government</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §575.205 - Tampering with electronic monitoring equipment

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the enhanced definitions for tampering with electronic monitoring equipment. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In Fiscal Year 2019, SPD's Trial Division opened 22 cases under charge code 575.205 of the 62,002 total cases opened.

While the number of new cases (or cases with increased penalties) 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** notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out of \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed with SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

**Oversight** assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Officials from the **Department of Corrections (DOC)** state this bill modifies the offense of tampering with electronic monitoring equipment. Section 575.205 is modified to include failing to charge or otherwise attempting to disable an electronic monitoring device in the list of actions

ASSUMPTION (continued)

considered as an offense of tampering with electronic monitoring equipment. This legislation, as it is written, adds a class D and E felony. However, the department is assuming that anyone charged under this legislation will receive a D felony.

Since this is a new offense, the department will use a standard class D felony response. For each new class D felony, it is estimated that three people will be sentenced to prison and 5 to probation. The average sentence for a non-violent class D felony offense is 5 years, of which 2.8 years will be served in prison 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 eight additional offenders in prison and 16 on field supervision by FY 2023.

	# to prison	Cost per year	Total Costs for <b>prison</b>	# to probation & parole	Cost per year	Total cost for <b>probation and parole</b>	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	3	(\$6,386)	(\$15,965)	5	absorbed	\$0	(\$15,965)
Year 2	6	(\$6,386)	(\$39,082)	10	absorbed	\$0	(\$39,082)
Year 3	8	(\$6,386)	(\$53,152)	16	absorbed	\$0	(\$53,152)
Year 4	8	(\$6,386)	(\$54,215)	19	absorbed	\$0	(\$54,215)
Year 5	8	(\$6,386)	(\$55,299)	22	absorbed	\$0	(\$55,299)
Year 6	8	(\$6,386)	(\$56,405)	22	absorbed	\$0	(\$56,405)
Year 7	8	(\$6,386)	(\$57,533)	22	absorbed	\$0	(\$57,533)
Year 8	8	(\$6,386)	(\$58,684)	22	absorbed	\$0	(\$58,684)
Year 9	8	(\$6,386)	(\$59,858)	22	absorbed	\$0	(\$59,858)
Year 10	8	(\$6,386)	(\$61,055)	22	absorbed	\$0	(\$61,055)

**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.

Officials from the **St. Louis County Police Department (SLCPD)** estimate if the department received 100 cases annually, it would require two hours of booking, two hours of report writing

ASSUMPTION (continued)

and warrant application, and one hour of warrant application review for each case. Therefore, at five hours per case, with an average hourly pay of \$46.72, each case would total \$233.60 (5 x \$46.72). This equates to approximately \$23,360 annually.

**Oversight** notes the estimated cost for the St. Louis County Police Department; however, Oversight is unable to project a statewide cost for police and sheriff's departments; therefore, the impact to local governments will be presented as \$0 to (Unknown).

**Oversight** notes the **Department of Public Safety - Missouri State Highway Patrol**, the **Office of State Courts Administrator**, the **Springfield Police Department**, and the **St. Louis County Department of Justice Services** have each stated the proposal would not have a direct fiscal impact on their respective organizations.

In response to a previous version, officials from the **Joplin Police Department** stated the proposal would not have a direct 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.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other police and sheriff's departments were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021	FY 2022	FY 2023
	(10 Mo.)		
<b>GENERAL REVENUE FUND</b>			
<u>Cost</u> - SPD (§575.205) Salaries, fringe benefits, and equipment and expense	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Cost</u> - DOC (§575.205) Increased incarceration costs	<u>(\$15,965)</u>	<u>(\$39,082)</u>	<u>(\$53,152)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(Less than \$115,965)</u></b>	<b><u>(Less than \$139,082)</u></b>	<b><u>(Less than \$153,152)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>LOCAL GOVERNMENT - POLICE AND SHERIFF'S DEPARTMENTS</b>			
<u>Cost - Police and Sheriff's Departments</u> (\$575.205) Increased labor hours to process cases	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENT - POLICE AND SHERIFF'S DEPARTMENTS</b>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

A person commits the offense of tampering with electronic monitoring equipment if he or she fails to charge or otherwise disables the electronic monitoring equipment.


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 Public Safety -  
    Missouri State Highway Patrol  
Missouri Office of Prosecution Services  
Office of State Courts Administrator  
State Public Defender's Office  
Joplin Police Department  
Springfield Police Department  
St. Louis County Police Department  
St. Louis County Department of Justice Services



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February 24, 2020



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