

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3763-01
Bill No.: HB 1520
Subject: Probation and Parole; Crimes and Punishment; Courts
Type: Original
Date: February 25, 2020

Bill Summary: This proposal changes the laws regarding probation and parole.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

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

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on FTE	0	0	0

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§217.690, 217.692, 217.720, 217.722, 544.457, and 544.676 - Probation and parole violations

Officials from the **Department of Corrections (DOC)** state this bill changes §217.690 to establish a presumption that all offenders are competent for participation in a parole hearing and are not eligible for counsel unless the Parole Board determines that the offender is unable to understand the nature, circumstances and procedures of the parole hearing. It also changes §217.720 to add language to allow the issuance of a warrant and holding of an offender if an arrest alleges probable cause that the offender committed a new felony offense. The legislation establishes the same standard to counsel eligibility for revocation hearings and also set standards for bond on probation violations.

The proposed legislation could potentially impact the department. However, it is unknown how many offenders would require counsel appointment for parole consideration or revocation hearings.

This change could also have a legal impact on the department in current litigation, and may increase the possibility of future litigation. The Board and division, in response to recent litigation, and under the supervision of federal courts, have developed a policy to address right to counsel in parole preliminary hearings and revocation hearings. In current practice, this counsel screening is conducted by the Division of Probation and Parole as opposed to the Board of Parole.

Oversight does not have any information contrary to that provided by DOC. However, Oversight assumes DOC could absorb some amount of increase in counsel appointments for parolees. Therefore, Oversight will reflect a range of \$0 (can absorb) to DOC's (Unknown) impact for fiscal note purposes to the General Revenue Fund.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS.

Oversight notes the **Attorney General's Office**, the **Department of Mental Health**, the **Office of State Courts Administrator**, and the **State Public Defender's Office** have each stated the proposal would not have a direct 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 2021 (10 Mo.)	FY 2022	FY 2023
GENERAL REVENUE FUND			
<u>Cost - DOC (§§217.690 and 217.720)</u>			
Increase number of counsel appointments for parole consideration or revocation hearings	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<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 contains a presumption that offenders are competent to participate in parole hearings without appointed counsel unless it is shown that they cannot understand the circumstances and procedures of the hearing.

Where there is probable cause that an offender committed a felony while on probation or parole for a felony offense, then they may be presumed to pose a danger and held for a violation hearing.

The bill also modifies the relevant evidence for granting bail by including factors such as whether a defendant is a flight risk or has previously been found guilty of specified crimes.

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 Mental Health
Department of Corrections
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office



Julie Morff
Director
February 25, 2020



Ross Strobe
Assistant Director
February 25, 2020