

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4690-02
Bill No.: HCS for HB 1964
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: March 5, 2020

Bill Summary: This proposal modifies provisions relating to the offense of tampering with a witness or victim.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$113,554)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$113,554)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
Total Estimated Net Effect on FTE	0	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	Fully Implemented (FY 2024)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§575.270 - tampering with a witness or victim

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 penalties for witness tampering. 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 68 cases under charge code 575.270 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 proposal modifies the penalty for the offense of tampering with a witness or victim.

ASSUMPTION (continued)

In FY 2019, there were 2 admissions to prison and 6 sentenced to probation with a class D felony relating to tampering with a witness or victim.

Considering the case of maximum impact, all admissions for tampering were class A felonies and the charge will be reclassified from class D felony to class C felony.

The differences of standard class D and class C felonies are summarized in the following table.

	Class D	Class C
Total Length	5	6.9
First Release	1.7	2.1
Total Prison	2.8	3.7
Probation	3	3

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	0	(\$6,386)	\$0	0	absorbed	\$0	\$0
Year 2	0	(\$6,386)	\$0	0	absorbed	\$0	\$0
Year 3	0	(\$6,386)	\$0	0	absorbed	\$0	\$0
Year 4	2	(\$6,386)	(\$13,554)	(2)	absorbed	\$0	(\$13,554)
Year 5	2	(\$6,386)	(\$13,825)	(2)	absorbed	\$0	(\$13,825)
Year 6	2	(\$6,386)	(\$14,101)	0	absorbed	\$0	(\$14,101)
Year 7	2	(\$6,386)	(\$14,383)	2	absorbed	\$0	(\$14,383)
Year 8	2	(\$6,386)	(\$14,671)	2	absorbed	\$0	(\$14,671)
Year 9	2	(\$6,386)	(\$14,964)	2	absorbed	\$0	(\$14,964)
Year 10	2	(\$6,386)	(\$15,264)	2	absorbed	\$0	(\$15,264)

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

Bill as a Whole

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

ASSUMPTION (continued)

Oversight notes the **Attorney General’s Office**, the **Department of Public Safety - Missouri State Highway Patrol**, and the **Office of State Courts Administrator** have each stated the proposal would not have a direct fiscal impact on their 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	Fully Implemented (FY 2024)
GENERAL REVENUE FUND				
<u>Costs - SPD</u> (\$575.270) Salaries, fringe benefits, and equipment and expense				
	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Costs - DOC</u> (\$575.270) Increase in incarceration costs				
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$13,554)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$113,554)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2024)
	<u>\$0</u>	<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 specifies that an otherwise inadmissible witness statement is admissible in evidence in a criminal proceeding as substantive evidence if the court finds, by a preponderance of the evidence in a hearing conducted outside the presence of the jury and before trial, that the defendant engaged in or acquiesced to wrongdoing with the purpose of preventing the witness from testifying in any proceeding.

This bill specifies that the offense of tampering with a witness or victim is a class C felony if the original charge is a class A felony or an unclassified 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 State Highway Patrol
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office



Julie Morff
Director
March 5, 2020



Ross Strobe
Assistant Director
March 5, 2020