

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4885-03  
Bill No.: HB 2374  
Subject: Crimes and Punishment; General Assembly  
Type: Original  
Date: February 18, 2020

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Bill Summary: This proposal creates criminal penalties for certain offenses committed against a body of the General Assembly.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>          |                                    |                                     |                                     |
|--|------------------------------------|-------------------------------------|-------------------------------------|
| FUND AFFECTED  | FY 2021                            | FY 2022                             | FY 2023                             |
| General Revenue  | \$0 or up to<br>(\$63,860)         | \$0 or up to<br>(\$156,329)         | \$0 or up to<br>(\$289,123)         |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue</b> | <b>\$0 or up to<br/>(\$63,860)</b> | <b>\$0 or up to<br/>(\$156,329)</b> | <b>\$0 or up to<br/>(\$289,123)</b> |

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

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 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>    |
| General Revenue   | 0 FTE          | 0 FTE          | 0 or 1 FTE        |
|   |                |                |                   |
| <b>Total Estimated Net Effect on FTE</b>                  | <b>0 FTE</b>   | <b>0 FTE</b>   | <b>0 or 1 FTE</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</b>     | <b>\$0</b>     | <b>\$0</b>     |

**FISCAL ANALYSIS**

**ASSUMPTION**

§§21.403, 21,404, 21.405, 575.040, 575.050, 575.160, 575.270, 575.580, 575.330, and 576.030 - Offenses committed against a body of the General Assembly

Officials from the **Department of Corrections (DOC)** state this proposal creates three new D felony penalties and three new E felony penalties for certain offenses committed against a body of the General Assembly.

For the new nonviolent class D felonies created in sections 575.040, 575.270 and 575.280, the department estimates 9 people will be sentenced to prison and 15 to probation. The average sentence for a nonviolent 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.

Change in prison admissions and probation openings with legislation

|   | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 | FY2028 | FY2029 | FY2030 |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| <b>New Admissions</b>                           |        |        |        |        |        |        |        |        |        |        |
| Current Law                                     | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      |
| After Legislation                               | 9      | 9      | 9      | 9      | 9      | 9      | 9      | 9      | 9      | 9      |
| <b>Probation</b>                                |        |        |        |        |        |        |        |        |        |        |
| Current Law                                     | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      |
| After Legislation                               | 15     | 15     | 15     | 15     | 15     | 15     | 15     | 15     | 15     | 15     |
| <b>Change (After Legislation - Current Law)</b> |        |        |        |        |        |        |        |        |        |        |
| Admissions                                      | 9      | 9      | 9      | 9      | 9      | 9      | 9      | 9      | 9      | 9      |
| Probations                                      | 15     | 15     | 15     | 15     | 15     | 15     | 15     | 15     | 15     | 15     |
| <b>Cumulative Populations</b>                   |        |        |        |        |        |        |        |        |        |        |
| Prison  | 9      | 18     | 25     | 25     | 25     | 25     | 25     | 25     | 25     | 25     |
| Parole  |        |        | 2      | 11     | 20     | 20     | 20     | 20     | 20     | 20     |
| Probation                                       | 15     | 30     | 45     | 45     | 45     | 45     | 45     | 45     | 45     | 45     |
| <b>Impact</b>                                   |        |        |        |        |        |        |        |        |        |        |
| Prison Population                               | 9      | 18     | 25     | 25     | 25     | 25     | 25     | 25     | 25     | 25     |
| Field Population                                | 15     | 30     | 47     | 56     | 65     | 65     | 65     | 65     | 65     | 65     |
| Population Change                               | 24     | 48     | 72     | 81     | 90     | 90     | 90     | 90     | 90     | 90     |

For the new nonviolent class E felonies created in sections 575.050, 575.160, and 576.030, the Department estimates three people will be sentenced to prison and six to probation. The average sentence for a nonviolent class E felony offense is 3.4 years of which, 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

ASSUMPTION (continued)

|   | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 | FY2028 | FY2029 | FY2030 |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| <b>New Admissions</b>                           |        |        |        |        |        |        |        |        |        |        |
| Current Law                                     | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      |
| After Legislation                               | 3      | 3      | 3      | 3      | 3      | 3      | 3      | 3      | 3      | 3      |
| <b>Probation</b>                                |        |        |        |        |        |        |        |        |        |        |
| Current Law                                     | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      |
| After Legislation                               | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      |
| <b>Change (After Legislation - Current Law)</b> |        |        |        |        |        |        |        |        |        |        |
| Admissions                                      | 3      | 3      | 3      | 3      | 3      | 3      | 3      | 3      | 3      | 3      |
| Probations                                      | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      |
| <b>Cumulative Populations</b>                   |        |        |        |        |        |        |        |        |        |        |
| Prison  | 3      | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      |
| Parole  |        |        | 3      | 4      | 4      | 4      | 4      | 4      | 4      | 4      |
| Probation                                       | 6      | 12     | 18     | 18     | 18     | 18     | 18     | 18     | 18     | 18     |
| <b>Impact</b>                                   |        |        |        |        |        |        |        |        |        |        |
| Prison Population                               | 3      | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      | 6      |
| Field Population                                | 6      | 12     | 21     | 22     | 22     | 22     | 22     | 22     | 22     | 22     |
| Population Change                               | 9      | 18     | 27     | 28     | 28     | 28     | 28     | 28     | 28     | 28     |

The combined cumulative impact on the department could be as much as 32 additional offenders in prison and 68 on field supervision by FY2023; however, due to the narrow scope of the new crimes, the department believes the impact may not be that high, and could be as low as zero.

Change in prison admissions and probation openings with legislation

|   | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 | FY2028 | FY2029 | FY2030 |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| <b>New Admissions</b>                           |        |        |        |        |        |        |        |        |        |        |
| Current Law                                     | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      |
| After Legislation                               | 12     | 12     | 12     | 12     | 12     | 12     | 12     | 12     | 12     | 12     |
| Probation                                       | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      |
| Current Law                                     | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      | 0      |
| After Legislation                               | 21     | 21     | 21     | 21     | 21     | 21     | 21     | 21     | 21     | 21     |
| <b>Change (After Legislation - Current Law)</b> |        |        |        |        |        |        |        |        |        |        |
| Admissions                                      | 12     | 12     | 12     | 12     | 12     | 12     | 12     | 12     | 12     | 12     |
| Probations                                      | 21     | 21     | 21     | 21     | 21     | 21     | 21     | 21     | 21     | 21     |
| <b>Cumulative Populations</b>                   |        |        |        |        |        |        |        |        |        |        |
| Prison  | 12     | 24     | 32     | 32     | 32     | 32     | 32     | 32     | 32     | 32     |
| Parole  | 0      | 0      | 5      | 15     | 24     | 24     | 24     | 24     | 24     | 24     |
| Probation                                       | 21     | 42     | 63     | 63     | 63     | 63     | 63     | 63     | 63     | 63     |
| <b>Impact</b>                                   |        |        |        |        |        |        |        |        |        |        |
| Prison Population                               | 12     | 24     | 32     | 32     | 32     | 32     | 32     | 32     | 32     | 32     |
| Field Population                                | 21     | 42     | 68     | 78     | 87     | 87     | 87     | 87     | 87     | 87     |
| Population Change                               | 33     | 66     | 99     | 109    | 118    | 118    | 118    | 118    | 118    | 118    |

ASSUMPTION (continued)

|         | # to<br>prison | Cost per<br>year | Total Costs for<br><b>prison</b> | Change in<br>probation<br>& parole<br>officers | Total cost<br>for<br><b>probation<br/>and<br/>parole</b> | # to<br>Probation<br>and<br>Parole | Grand Total -<br>Prison and<br>Probation<br>(includes a 2%<br>inflation) |
|---------|----------------|------------------|----------------------------------|--|--|------------------------------------|--|
| Year 1  | 12             | (\$6,386)        | (\$63,860)                       | 0  | \$0  | 21                                 | (\$63,860)   |
| Year 2  | 24             | (\$6,386)        | (\$156,329)                      | 0  | \$0  | 42                                 | (\$156,329)  |
| Year 3  | 32             | (\$6,386)        | (\$212,608)                      | 1  | (\$76,515)   | 68                                 | (\$289,123)  |
| Year 4  | 32             | (\$6,386)        | (\$216,860)                      | 1  | (\$68,824)   | 78                                 | (\$285,684)  |
| Year 5  | 32             | (\$6,386)        | (\$221,197)                      | 1  | (\$69,567)   | 87                                 | (\$290,765)  |
| Year 6  | 32             | (\$6,386)        | (\$225,621)                      | 1  | (\$70,320)   | 87                                 | (\$295,941)  |
| Year 7  | 32             | (\$6,386)        | (\$230,134)                      | 1  | (\$71,083)   | 87                                 | (\$301,217)  |
| Year 8  | 32             | (\$6,386)        | (\$234,736)                      | 1  | (\$71,854)   | 87                                 | (\$206,590)  |
| Year 9  | 32             | (\$6,386)        | (\$239,431)                      | 1  | (\$72,635)   | 87                                 | (\$312,066)  |
| Year 10 | 32             | (\$6,386)        | (\$244,220)                      | 1  | (\$73,425)   | 87                                 | (\$317,644)  |

If this impact statement has changed from statements submitted in previous years, it is because the DOC 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 2019, 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 2020 fiscal notes. 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 would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. 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. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 44 probation and parole districts.

The DOC cost of incarceration is \$17.496 per day or an annual cost of \$6,386 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)

**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. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

**Oversight** notes the **Attorney General's Office**, the **Department of Public Safety - Missouri State Highway Patrol**, the **Missouri House of Representatives**, the **Department of Transportation**, the **Office of State Courts Administrator**, the **Missouri Senate**, 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<br>(10 Mo.)  | FY 2022   | FY 2023   |
|--|--|---|---|
| <b>GENERAL REVENUE</b>   |  |   |   |
| <u>Savings - DOC - Change in P&amp;P Officers</u>                                    |  |   | \$0 or up to...   |
| Personal Services  | \$0  | \$0   | (\$39,532)  |
| Fringe Benefits  | \$0  | \$0   | (\$24,911)  |
| Expense and Equipment  | <u>\$0</u>   | <u>\$0</u>  | <u>(\$12,072)</u>   |
| <u>Total Savings - DOC</u>   | <u>\$0</u>   | <u>\$0</u>  | <u>(\$76,515)</u>   |
| FTE Change - DOC   | 0 FTE  | 0 FTE   | 1 FTE   |
| <br><u>Cost - DOC (§§575.040, 575.270 and 575.280) Increased incarceration costs</u> | <u>\$0 or up to</u><br><u>(\$63,860)</u>                   | <u>\$0 or up to</u><br><u>(\$156,329)</u>                   | <u>\$0 or up to</u><br><u>(\$212,608)</u>                   |
| <br><b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>                                   | <br><b><u>\$0 or up to</u></b><br><b><u>(\$63,860)</u></b> | <br><b><u>\$0 or up to</u></b><br><b><u>(\$156,329)</u></b> | <br><b><u>\$0 or up to</u></b><br><b><u>(\$289,123)</u></b> |
| <br>Estimated Net FTE Change for the General Revenue Fund                            | <br>0 FTE  | <br>0 FTE   | <br>0 or 1 FTE  |

| <u>FISCAL IMPACT - Local Government</u> | FY 2021<br>(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 specifies that, when a person is called to testify or provide information at a proceeding before a body of the General Assembly, a court must issue, upon request from a duly authorized representative of the body, an order requiring the person to testify or provide information if the person refuses to do so on the basis of the person's privilege against self-incrimination. Before issuing such an order, a court must find that the request for the order has been approved by a vote of a majority of the members of the body requesting the order. If a witness refuses, on the basis of the privilege against self-incrimination, to testify or provide information and the person presiding over the proceeding informs the witness that an order requiring the testimony or production of information was issued, the witness must not refuse to comply with the order on the basis of the asserted privilege. However, no testimony or information compelled under the order may be used against the witness in any criminal proceeding other than perjury, giving a false statement, or otherwise failing to comply with the order.

If a witness summoned by a body of the General Assembly willfully fails to appear, refuses to answer any pertinent questions, or fails to produce required documents, a statement of facts regarding such failure may be reported to and filed with the President Pro Tem of the Senate or the Speaker of the House. Either the President Pro Tem or the Speaker may certify the statement of facts to the prosecuting or circuit attorney having jurisdiction. The Attorney General will have concurrent original jurisdiction to commence a criminal action throughout the state. If the Attorney General and the prosecuting or circuit attorney refuse to prosecute, the court must appoint independent counsel upon the request of the President Pro Tem or the Speaker.

The bill also specifies that:

- (1) The offense of perjury is a class D felony if it is committed in any proceeding before a body of the General Assembly;
- (2) The offense of making a false affidavit is a class E felony when it is done in any proceeding before a body of the General Assembly;

FISCAL DESCRIPTION (continued)

(3) The offense of interference with a legal process is a class E felony if the process, which includes any process or order of a public body, if the process is a subpoena issued by the House of Representatives or the Senate;

(4) The offense of tampering with a witness or victim is a class D felony when the witness is a witness in a proceeding before a body of the General Assembly;

(5) The offense of acceding to corruption when the person is a witness or prospective witness in a proceeding before a body of the General Assembly is a class D felony;

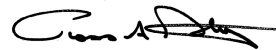
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office  
Department of Corrections  
Department of Public Safety - Missouri State Highway Patrol  
Missouri House of Representatives  
Department of Transportation  
Missouri Office of Prosecution Services  
Office of State Courts Administrator  
Missouri Senate  
State Public Defender's Office



Julie Morff  
Director  
February 18, 2020



Ross Strope  
Assistant Director  
February 18, 2020