

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5800-01
Bill No.: HB 2
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: August 13, 2020

Bill Summary: This proposal modifies provisions relating to criminal actions.

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 7 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

§§491.016 and 575.270 - Tampering with a witness or victim

Officials from the **Department of Corrections (DOC)** state this proposal modifies the penalty for the offense of tampering with a witness or victim.

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 a class D felony to a 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)

ASSUMPTION (continued)

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.

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 **State Public Defender's Office (SPD)** assume an (unknown) fiscal impact.

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 may not 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

ASSUMPTION (continued)

supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD may not 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 **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 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.

FISCAL IMPACT -
State Government

	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2024)
GENERAL REVENUE FUND				
<u>Costs - DOC</u> (§§491.016 and 575.270) Increase in incarceration costs	\$0	\$0	\$0	(\$13,554)
<u>Costs - SPD</u> (§§491.016 and 575.270) Salaries, fringe benefits, and equipment and expense	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</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>

FISCAL IMPACT -
Local Government

	FY 2021	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 the case is submitted to the jury, 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.

There is an emergency clause for this bill.

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
August 13, 2020



Ross Strobe
Assistant Director
August 13, 2020