

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0462H.01I
 Bill No.: HB 301
 Subject: Crimes and Punishment; Criminal Procedure
 Type: Original
 Date: January 21, 2021

Bill Summary: This proposal modifies the offense of resisting or interfering with arrest.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
General Revenue	(\$25,853)	(\$174,045)	(\$242,080)	(\$356,177)
Total Estimated Net Effect on General Revenue	(\$25,853)	(\$174,045)	(\$242,080)	(\$356,177)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
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 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
General Revenue	0 FTE	0 FTE	0 FTE	1 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	0 FTE	1 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§575.150 – Resisting or interfering with arrest

Officials from the **Department of Corrections (DOC)** state this bill modifies the offense of resisting arrest by fleeing in a motor vehicle to a class E felony for the first offense and a class D felony for subsequent offenses, and modifies aggravated resisting arrest by fleeing in a motor vehicle to a class D felony for a first offense and a class C felony for subsequent offenses.

The potential impact of this bill on department operations is difficult to determine because department records do not differentiate between resisting arrest offenses that involve motor vehicles and those that do not. Therefore, DOC assumes that offenses under section 577.150 that were sentenced as class E felonies will continue to be sentenced as class E felonies unless the offender has a prior sentence under this section, in which case the sentence would be reclassified as a class D felony.

Although the bill also introduces the potential for a class C felony for repeated aggravated resisting arrest, the impact of creating the aggravated resisting arrest offense as a first offense is what is taken into account in this response. This is done by using the department's standard response to the creation of a new violent class D felony offense.

The combined operational impact of this bill takes into account the increase in penalties for offenders with repeated resisting arrest sentences and the creation of a new class D felony offense for aggravated resisting arrest.

In FY 2020, there were 383 new court commitments to prison on sentences under section 575.150. Of those, 35 had prior sentences under section 575.150. Therefore, DOC estimates there will be 35 persons sentenced for a class D felony instead of a class E felony due to their prior sentences for resisting arrest.

The differences for a class E felony under 575.150 and a possible class D felony under 575.150 are summarized in the table immediately below. Offenders first released from prison in FY 2020 whose longest sentence was for a class E felony served, on average, 0.8 years of a 3.1 year sentence, or approximately 26% of the sentence, prior to first release. DOC estimates that 33% of the remaining sentence term, or approximately 0.8 years, will be spent in prison following returns from parole supervision; and, the remaining 1.5 years of the sentence will be spent under parole supervision.

	Class E	Class D	Diff
First release	0.8	0.9	0.1
Total prison	1.6	2.1	0.5
Total Parole	1.5	2.4	0.9
Total Sentence	3.1	4.5	1.4

Offenders first released from prison in FY 2020 whose longest sentence was for a class D felony served, on average, 0.9 years of a 4.5 year sentence, or approximately 20% of the sentence, prior to first release. DOC estimates that 33% of the remaining sentence term, or approximately 1.2 years, will be spent in prison following returns from parole supervision; and, the remaining 2.4 years of the sentence will be spent under parole supervision.

As shown in the table, reclassification is likely to lead to an additional 0.5 years in prison, an additional 0.9 years on parole supervision, and an additional 1.4 years of the total sentence for these offenders.

The impact of increasing the penalty for a second offender under section 577.150 does not appear until FY 2025, and would be expected to reach maximum cumulative impact in FY 2026, with 18 additional offenders in prison and 32 additional offenders under field supervision.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	35	35	35	35	35	35	35	35	35	35
After Legislation	35	35	35	35	35	35	35	35	35	35
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	0	0	0	0	0	0	0	0	0	0
Probations	0	0	0	0	0	0	0	0	0	0
Cumulative Populations										
Prison		14	18	18	18	18	18	18	18	18
Parole		-14	-18	14	32	32	32	32	32	32
Probation										
Impact										
Prison Population		14	18	18	18	18	18	18	18	18
Field Population		-14	-18	14	32	32	32	32	32	32
Population Change				32	49	49	49	49	49	49

For each new violent class D felony, the department estimates four people will be sentenced to prison and four to probation. The average sentence for a violent class D felony offense is 5.7 years, of which 4 years will be served in prison with 3 years to first release. The remaining 1.7 years will be on parole. Probation sentences will be 4 years.

The cumulative impact on the department is estimated to be 16 additional offenders in prison and 23 additional offenders on field supervision by FY 2027.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	4	8	12	16	16	16	16	16	16	16
Parole				0	4	7	7	7	7	7
Probation	4	8	12	16	16	16	16	16	16	16
Impact										
Prison Population	4	8	12	16	16	16	16	16	16	16
Field Population	4	8	12	16	20	23	23	23	23	23
Population Change	8	16	24	32	36	39	39	39	39	39

The estimated combined cumulative impact of this bill is an additional 33 offenders in prison and an additional 52 offenders under field supervision by FY 2026.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	35	35	35	35	35	35	35	35	35	35
After Legislation	39	39	39	39	39	39	39	39	39	39
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	4	22	30	33	33	33	33	33	33	33
Parole	0	-14	-18	14	36	39	39	39	39	39
Probation	4	8	12	16	16	16	16	16	16	16
Impact										
Prison Population	4	22	30	33	33	33	33	33	33	33
Field Population	4	-6	-6	30	52	55	55	55	55	55
Population Change	8	16	24	64	85	88	88	88	88	88

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	4	(\$7,756)	(\$25,853)	0	\$0	4	(\$25,853)
Year 2	22	(\$7,756)	(\$174,045)	0	\$0	(6)	(\$174,045)
Year 3	30	(\$7,756)	(\$242,080)	0	\$0	(6)	(\$242,080)
Year 4	33	(\$7,756)	(\$271,614)	0	\$0	30	(\$271,614)
Year 5	33	(\$7,756)	(\$277,046)	1	(\$79,131)	52	(\$356,177)
Year 6	33	(\$7,756)	(\$282,587)	1	(\$70,950)	55	(\$353,538)
Year 7	33	(\$7,756)	(\$288,239)	1	(\$71,719)	55	(\$359,958)
Year 8	33	(\$7,756)	(\$294,004)	1	(\$72,497)	55	(\$366,501)
Year 9	33	(\$7,756)	(\$299,884)	1	(\$73,284)	55	(\$373,168)
Year 10	33	(\$7,756)	(\$305,882)	1	(\$74,080)	55	(\$379,961)

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (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 the DOC average district caseload across the state which is 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 48 probation and parole districts.

The DOC cost of incarceration is \$21.251 per day or an annual cost of \$7,756 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.

DOC notes there were 26 offenders with new commitments to prison in FY 2019 who had prior resisting arrest offenses. Therefore, DOC updated the numbers previously used in HCS HB 1620 (2020). The number of new commitments in FY 2020 with prior offenses was 35 which was the number used to estimate the impact for FY 2021.

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

For the purpose of the proposed legislation, and as a result of excessive caseloads, the **Missouri State Public Defender (SPD)** cannot assume existing staff will be able to provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime(s) concerning resisting arrest by fleeing, which are classified as felonies under Section 575.150 RSMo. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards. While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the Missouri State Public Defender will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the SPD for fiscal note purposes.

Officials from the **Attorney General's Office**, the **Department of Revenue**, the **Department of Public Safety - Missouri Highway Patrol**, the **Missouri Department of Transportation**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **Boone County Sheriff's Department**, the **Crestwood Police Department**, the **Ellisville Police Department**, the **Kansas City Police Department**, the **Springfield Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department** each assume the proposal will have no 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.

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 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2026)
GENERAL REVENUE FUND				
<u>Costs – DOC (\$575.150)</u> Increase in P&P officers				
Personal service	\$0	\$0	\$0	(\$40,326)
Fringe benefit	\$0	\$0	\$0	(\$26,035)
Expense and equipment	\$0	\$0	\$0	(\$12,770)
<u>Total Costs – DOC</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$79,131)</u>
FTE Change – DOC	0 FTE	0 FTE	0 FTE	1 FTE
<u>Costs – DOC Increased incarceration costs</u>	<u>(\$25,853)</u>	<u>(\$174,045)</u>	<u>(\$242,080)</u>	<u>(\$277,046)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$25,853)</u>	<u>(\$174,045)</u>	<u>(\$242,080)</u>	<u>(\$356,177)</u>
Estimated Net FTE Change for the General Revenue Fund	0 FTE	0 FTE	0 FTE	1 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2026)
	<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 a person commits the offense of resisting arrest by fleeing in a motor vehicle if he or she resists an arrest, stop, or detention by fleeing from law enforcement in a

motor vehicle and, during the course of fleeing, drives at a speed or in a manner that demonstrates a disregard for the safety of a person or property, including that of the pursuing officer or other occupants of the fleeing vehicle. The offense of resisting arrest by fleeing in a motor vehicle is a class E felony. For a second or subsequent conviction, it is a class D felony.

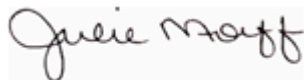
If, during the commission of resisting arrest by fleeing in a motor vehicle, serious bodily injury or death to another person, including any officer, results, the person is guilty of the offense of aggravated resisting arrest by fleeing in a motor vehicle, which is a class D felony. For a second or subsequent conviction, it is a class C felony.

A prosecuting attorney shall not be required to prove that the defendant knew why he or she was being stopped, arrested, or detained.

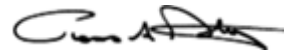
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Revenue
Department of Public Safety
Missouri Department of Transportation
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
Boone County Sheriff's Department
Crestwood Police Department
Ellisville Police Department
Kansas City Police Department
Springfield Police Department
St. Joseph Police Department
St. Louis County Police Department



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