

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5562-07
Bill No.: HCS for HB 1525
Subject: Prisons and Jails; Corrections Department; Boards, Commissions, Committees, Councils
Type: Original
Date: February 20, 2012

Bill Summary: This proposal modifies laws relating to criminal offenders under the supervision of the Department of Corrections

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	\$168,657	\$240,136	\$158,444
Total Estimated Net Effect on General Revenue Fund	\$168,657	\$240,136	\$158,444

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol** and the **Office of the State Courts Administrator** each assumed the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state this bill creates four new measures that impact their agency;

- **Sentencing and Corrections Oversight Commission** - This act creates a 13-member commission to oversee the implementation, and to calculate the effects, of this act. The duties of the commission also include determining ways to reinvest any cost savings realized from the passage of this act to pay for evidence-based practices to reduce recidivism and examining how restitution is collected for crime victims;
- **Earned Compliance Credits** - requires the Division of Probation and Parole to award earned compliance credits equal to 30 days for each full month the offender remains in compliance with the terms of probation or parole;
- **Administrative Jail Sanctions** - allows the Division of Probation and Parole to place offenders in jail for short periods of time when a probation and parole officer believes an offender has violated a condition of release unless the offender's order of release includes detention as a condition of the probation or parole. The first period of detention may be no longer than 48 hours and the offender may only spend up to 360 hours in jail in a calendar year. The division must reimburse counties at a rate of \$30 per day per offender; and
- **Mandatory Placement in 120-Day Program for First Revocation** - Under this act, the court must send certain offenders to one of the department's alternative 120 day or drug treatment programs before revoking the offender's probation upon a determination by the court that the offender committed a violation of the terms of release.

DOC state the new measures have the following fiscal impact:

The impact of this bill is as follows:

- **Sentencing and Corrections Oversight Commission**: the creation of the Sentencing and Corrections Oversight Commission will not create any cost avoidance/savings and could have minor administrative costs to the Department. However, those costs should be minimal.

RS:LR:OD

ASSUMPTION (continued)

- **Earned Compliance Credits:** - version 7N contains language changes that allows prior time under supervision to count towards the required two-year minimum time under supervision but not for earned credit. This means if an offender has six months remaining on their probation on August 28, 2012, earns three months credit in the first three months, and has served at least 24 months, the offender can be discharged at the end of November 2012. Previous versions required the two year minimum probation or parole stay to start from the enactment date, August 28, 2012.

The new language allows earned credit savings to begin to accrue in FY13. In FY13 it should reduce the number of offenders supervised in the community by approximately 396 and generate \$183,357 in savings at \$1.27 per day. In FY14 it should reduce the number of offenders supervised in the community by 527 and generate a savings of \$244,476 at \$1.27 per day. In FY15 it should reduce 1,465 offenders at a savings of \$1.27 per offender per day for a total of \$679,101 in projected savings.

- **Administrative Jail Sanctions:** the Department was unable to calculate any cost avoidance/savings from implementation of this measure. However, there will be a cost associated with using this measure and paying counties \$30 per day to hold DOC offenders in jail. This program was projected to start as a pilot in the first year (FY13) with an expanded pilot in year two (FY14) and full implementation in FY15. The initial cost of the pilot was estimated to be \$240,000. FY14 would expand to the amount of the pilot to \$500,000 and full implementation cost would be \$1,100,000 in FY15. The full implementation cost figure is based on calculations that approximately 2,500 offenders would be eligible for this measure at \$30 per day and 15 days per year.

The cost figures indicated here are subject to monies being appropriated by the General Assembly. The legislation states the cost shall be at least \$30 per day.

- **Mandatory Placement in 120-Day Program for First Revocation:** the mandatory placement in 120-day programs is a cap on the amount of time for which offenders may be revoked to prison. This measure would create savings by decreasing the number of supervised offenders who are currently revoked to a term sentence and limiting their incarceration to 120 days.

Based on Department of Corrections' calculations, this measure will accrue cost avoidance/savings beginning in FY13, when the time reductions equal to 70 full-time prison beds would be achieved at a projected savings of \$225,300. This figure increases to 154 full-time beds and \$495,660 in projected savings in FY14. In FY15, the projected savings is for 180 full-time beds and \$579,343.

RS:LR:OD

ASSUMPTION (continued)

Although there has been no discussion or calculation of fiscal impact, the DOC would like to note that there is a potential fiscal impact on the Department’s Inmate Revolving Fund, which is funded through collection of an intervention fee paid by offenders under community supervision by the Division of Probation and Parole. The measures above may decrease the amount of time offenders are under supervision and result in decreasing the length of probation for the lowest risk offenders who would be most likely to pay their intervention fees.

The Department would also like to note that the figures provided for this fiscal note are based on the calculations provided by the DOC Research Section. The report submitted by the Working Group on Sentencing and Corrections also contains calculations provided by Applied Research Services, Inc. (ARS) that project higher savings estimates. We believe the figures we have calculated are a correct estimate based upon our knowledge and experience analyzing the departmental data that was the basis of the working group’s report.

Although the DOC has developed cost avoidance/savings projections, the ultimate fiscal impact on the Department is dependent on many other factors such as newly proposed legislation to enhance or create new criminal penalties. The figures are based on our best estimate at this time.

	DOC 120 Day		DOC Earned Discharge		Total Savings	Admin Jail	Net
	population	savings	Population	Savings		Sanctions Costs	Difference
FY 13	70	\$225,300	396	\$183,357	\$408,657	(\$240,000)	\$168,657
FY 14	154	\$495,660	527	\$244,476	\$740,136	(\$500,000)	\$240,136
FY 15	180	\$5,749,343	1,465	\$679,101	\$1,258,444	(\$1,100,000)	\$158,444
FY 16	190	\$611,528	1,465	\$679,101	\$1,290,629	(\$1,100,000)	\$190,629
FY 17	202	\$650,151	1,465	\$679,101	\$1,329,252	(\$1,100,000)	\$229,252
TOTAL		\$2,561,982		\$2,465,136		(\$4,040,000)	\$987,118

Officials from the **Office of the State Public Defender (SPD)** state this legislation will require a small amount of time of the SPD participating in the proposed Sentencing and Corrections Oversight Committee, but the cost benefits to the criminal judicial system likely will result from the remainder of the legislation would more than outweigh that minimal time investment.

The evidence compiled by the Pew Institute shows that the policies proposed here have a proven track record of reducing the number of probation violations and improving recidivism. Any reduction in probation violations means a reduction in public defender workload, as do improvements in reducing recidivism.

ASSUMPTION (continued)

The Missouri Working Group on Sentencing and Corrections' Consensus Report released in December 2011, estimated a reduction in the Missouri prison population at the end of 2017 of between 245 and 677 inmates, at a savings of between \$7.7 million and \$16.6 million.

Oversight will utilize DOC's estimates of the fiscal impact of the changes in this proposal.

Officials from the **Office of Prosecution Services, Clay County, Greene County and Jasper County** did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE FUND			
<u>Savings - DOC</u>			
Earned Compliance Credits	\$183,357	\$244,476	\$679,101
<u>Savings - DOC</u>			
Mandatory placement in 120 day program	\$225,300	\$495,660	\$579,343
<u>Costs - DOC</u>			
Administrative Jail Sanctions	<u>(\$240,000)</u>	<u>(\$500,000)</u>	<u>(\$1,100,000)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$168,657</u>	<u>\$240,136</u>	<u>\$158,444</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
LOCAL POLITICAL SUBDIVISIONS			
<u>Income</u> - reimbursement from the state for Administrative Jail Sanctions	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs</u> - of imprisonment for Administrative Jail Sanctions	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<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 proposal establishes the Justice Reinvestment Act and changes the laws regarding criminal offenders under the supervision of the Department of Corrections.

SENTENCING AND CORRECTIONS OVERSIGHT COMMISSION - Section 217.147 creates a 13-member Sentencing and Corrections Oversight Commission to monitor and assist in the implementation of these provisions, determine ways to reinvest any cost savings realized from the passage of these provisions to pay for continued implementation and other evidence-based practices to reduce recidivism, and examine the issue of restitution for crime victims.

EARNED COMPLIANCE CREDITS - (Section 217.703) the Division of Probation and Parole must award earned compliance credits. Earned compliance credits must reduce the term of probation, parole, or conditional release by 30 days for each full calendar month of compliance with all terms of supervision, but may be suspended or rescinded if the offender violates the conditions of supervision. An offender deemed to be an absconder, as defined in the bill, cannot earn credits.

FISCAL DESCRIPTION (continued)

ADMINISTRATIVE JAIL SANCTIONS - Section 217.718 allows, as an alternative to the revocation proceeding, a probation or parole officer to place an offender in the county jail for a short period of time when the officer believes the offender has violated a condition of probation or parole unless the court has otherwise required detention to be a condition of probation. The first period of detention cannot exceed 48 hours, but subsequent periods may exceed 48 hours. However, the total cannot exceed 360 hours in any year. The officer must present the offender with a report detailing the violation and advise the offender of the right to a hearing before the court or board prior to the period of detention. The officer must, to the extent feasible, impose the period of detention during days and times when the offender is not otherwise scheduled to work. The division must reimburse the county jail for the costs of detention at a rate to be determined by the department which must be at least \$30 per day per offender and subject to appropriation by the General Assembly. Prior to ordering the offender to detention, the officer must certify to the county jail that the division has sufficient funds to provide reimbursement. A jail may refuse to detain an offender if funds are not available or there is inadequate space in the facility. Upon successful completion of the period of detention, the court or board cannot revoke the term of parole, probation, or conditional release or impose additional periods of detention for the same incident. If the offender fails to complete the period of detention, he or she may be arrested.

MANDATORY PLACEMENT IN 120-DAY PROGRAM - (Section 559.036 - 559.115) if a continuation, modification, enlargement, or extension of the probation period is not appropriate, the court must order certain offenders to be placed in one of the department's 120-day programs when the offender violated a condition of probation. A nonviolent offender who is on probation for a class C or D felony or a drug offense; who has not already been placed in a 120-day program for the same offense or during the same probation term; whose probation violation does not involve absconding or being arrested on suspicion of, being found guilty of, or pleading guilty to any crime; and who has not violated any conditions of probation involving the possession or use of weapons or a stay away condition will be eligible for placement in one of these programs. Upon receiving the order from the court for placement, the department must conduct an assessment and place the offender in the appropriate 120-day program, including shock incarceration or institutional treatment. Once the offender has completed the program, the court must release the offender to continue to serve the term of probation without modifying, enlarging, or extending the term based on the same violation. Time served in the program must be credited as time served against the offender's sentence.

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

Department of Corrections
Office of the State Courts Administrator
Department of Public Safety
Office of the State Public Defender

Not Responding:
Office of Prosecution Services
Clay County
Greene County
Jasper County



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Director
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