

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0778-02  
Bill No.: Perfected HCS for HB 324  
Subject: Crimes and Punishment; Aircraft and Airports; Department of Corrections;  
 Prisons and Jails  
Type: Original  
Date: February 19, 2019

---

Bill Summary: This proposal creates the offense of unlawful use of an unmanned aircraft near a correctional center or a mental health facility.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</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 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</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 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §217.850 and §632.460- Unmanned aircraft near a correctional center or mental health facility

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 proposed new crimes relating to the unlawful use of an unmanned aircraft near a correctional center including to deliver weapons, drugs or to facilitate an escape. These new crimes range from a new class A misdemeanor to a class B felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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 \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed within 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 **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.

ASSUMPTION (continued)

**Oversight** notes that the **Department of Corrections (DOC)** has stated the proposal would not have a direct fiscal impact on their organization.

**Oversight** notes this proposal creates an offense of unlawful use of unmanned aircraft near a correctional center. In section 217.010, ‘correctional center’ is defined as “any premises or institution where incarceration, evaluation, care, treatment, or rehabilitation is provided to persons who are under the department’s authority.” Oversight notes this may inadvertently include persons under the authority of DOC’s Probation and Parole Division that are not in prison and may be in premises receiving an evaluation, care, or treatment (such as a doctor’s office or clinic), which could create an overly broad scope for this new offense. The **DOC** states their response above is based on the interpretation of the statutory definition of a correctional center as a DOC operated facility for the housing of incarcerated offenders. Oversight will defer to DOC’s interpretation and utilize their no impact response.

**Oversight** notes that the **Department of Public Safety - Missouri State Highway Patrol, Department of Transportation, Office of State Courts Administrator** and **St. Louis County** 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.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, **Jackson County, Jefferson County** and **St. Charles County** were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to [www.legislativeoversight.mo.gov](http://www.legislativeoversight.mo.gov).

House Amendments (HA) 1 and 2:

**Oversight** notes that the **Department of Mental Health, Department of Corrections, Department of Public Safety - Missouri State Highway Patrol, Department of Transportation, Missouri Office of Prosecution Services, Office of State Courts Administrator** and **State Public Defender’s Office** each assume the amendments would not fiscally impact their respective agencies.

Oversight has no information to the contrary, therefore, **Oversight** assumes HA 1 and HA 2 have no fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>GENERAL REVENUE FUND</b>			
<u>Costs - SPD (§§217.850 and 632.460)</u>			
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>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill creates the offense of unlawful use of an unmanned aircraft.

The offense of unlawful use of an unmanned aircraft near a correctional center is a class A misdemeanor unless the person uses the unmanned aircraft for the purpose of:

- (1) Delivering a weapon or other article that may be used in such a manner to endanger the life of an offender or correctional center employee, in which case it is a class B felony;
- (2) Facilitating an escape from confinement, in which case it's a class C felony; or
- (3) Delivering a controlled substance, in which case it is a class D felony.

This bill also creates the offense of unlawful use of an unmanned aircraft near a mental health facility.

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  
Department of Mental Health  
Department of Public Safety -  
    Missouri State Highway Patrol  
Department of Transportation  
Missouri Office of Prosecution Services  
Office of State Courts Administrator  
State Public Defender's Office



Kyle Rieman  
Director  
February 19, 2019

Ross Strope  
Assistant Director  
February 19, 2019