

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3931-05  
Bill No.: HCS for SCS for SB 662  
Subject: Agriculture; Food; Utilities; Eminent Domain and Condemnation  
Type: Original  
Date: April 30, 2020

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Bill Summary: This proposal modifies provisions relating to judicial proceedings.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
General Revenue*	Could substantially exceed (\$510,756)	Could substantially exceed (\$1,013,423)	Could substantially exceed (\$1,266,414)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Could substantially exceed (\$510,756)</b>	<b>Could substantially exceed (\$1,013,423)</b>	<b>Could substantially exceed (\$1,266,414)</b>

\* The fiscal impact could vary substantially depending upon the actual start dates of the court reporters (which we do not have). Also, Oversight assumes the court reporters would only receive ONE of the raises on the grid (\$485,060.3) on January 1, 2021. If the raises are allowed to compound based upon their years of service and court reporters receive multiple step raises on January 1, 2021, the fiscal impact would be much greater.

Also, Oversight notes the fiscal impact from the repeal of section 211.438, which removes a contingency of expansion of services could be a substantial impact to the state.

\*Transfers in and distributions net to zero.  
Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 26 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Change of Venue for Capital Cases Fund	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Juvenile Justice Preservation Fund*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<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>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<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>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Local Government</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

## FISCAL ANALYSIS

### ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

Officials from the **Department of Health and Senior Services, House of Representatives, Joint Committee on Administrative Rules, Missouri Consolidated Healthcare Program, Missouri Department of Conservation, Missouri Department of Higher Education and Workforce Development, Missouri Department of Public Safety - Missouri Veterans Commission, Missouri Ethics Commission, Missouri Lottery, Missouri Office of Prosecution Services, Office of Administration, Senate, State Emergency Management Agency, State Tax Commission, and City of O'Fallon** assume this bill has no fiscal impact.

Sections 21.403, 21.405, 575.040, 575.050, 575.160, 575.270, 575.280, 575.330, and 576.030 - Offenses committed against a body of the General Assembly

In response to HCS for HB 2374 (2020), officials from the **Department of Corrections (DOC)** stated this proposal creates two D felonies and three E felonies for certain offenses committed against a body of the General Assembly.

For the new nonviolent class D felonies created in sections 575.040 and 575.280, the department estimates 6 people will be sentenced to prison and 10 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.

ASSUMPTION (continued)

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	6	6	6	6	6	6	6	6	6	6
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	10	10	10	10	10	10	10	10	10	10
<b>Change (After Legislation - Current Law)</b>										
Admissions	6	6	6	6	6	6	6	6	6	6
Probations	10	10	10	10	10	10	10	10	10	10
<b>Cumulative Populations</b>										
Prison	6	12	17	17	17	17	17	17	17	17
Parole			1	7	13	13	13	13	13	13
Probation	10	20	30	30	30	30	30	30	30	30
<b>Impact</b>										
Prison Population	6	12	17	17	17	17	17	17	17	17
Field Population	10	20	31	37	43	43	43	43	43	43
Population Change	16	32	48	54	60	60	60	60	60	60

For the new nonviolent class E felonies created in sections 575.050, 575.330, 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.

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	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

ASSUMPTION (continued)

The combined cumulative impact on the department is estimated to be 23 additional offenders in prison and 52 on field supervision by FY23; 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.

	# to prison	Cost per year	Total Costs for <b>prison</b>	Change in probation & parole officers	Total cost for <b>probation and parole</b>	# to Probation and Parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	9	(\$6,386)	(\$47,895)	0	\$0	16	(\$47,895)
Year 2	18	(\$6,386)	(\$117,247)	0	\$0	32	(\$117,247)
Year 3	23	(\$6,386)	(\$152,812)	1	(\$76,515)	52	(\$229,327)
Year 4	23	(\$6,386)	(\$155,868)	1	(\$68,824)	59	(\$224,692)
Year 5	23	(\$6,386)	(\$158,985)	1	(\$69,567)	65	(\$228,553)
Year 6	23	(\$6,386)	(\$162,165)	1	(\$70,320)	65	(\$232,485)
Year 7	23	(\$6,386)	(\$165,408)	1	(\$71,083)	65	(\$236,492)
Year 8	23	(\$6,386)	(\$168,717)	1	(\$71,854)	65	(\$240,571)
Year 9	23	(\$6,386)	(\$172,091)	1	(\$72,635)	65	(\$244,726)
Year 10	23	(\$6,386)	(\$175,533)	1	(\$73,425)	65	(\$248,958)

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.

ASSUMPTION (continued)

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 range DOC's impact from \$0 to their estimates.

In response to HCS for HB 2374, 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.

Sections 89.080 & 485.060 - Board of Adjustment & court reporter raises

Officials at the **Office of the State Courts Administrator (OSCA)** assume \$485,060 of the proposal states that "each court reporter shall receive a one-time increase upon meeting the minimum number of cumulative years of service." OSCA assumes the court reporters would receive an increase each time they meet a new level of service and calculated the fiscal impact as if each court reporter would reach the highest level of salary throughout their career (21 years or more) and would be increased to the highest annual salary level indicated. Based on 147 court reporters at current salary levels, with an annual increase of \$20,313.77 per court reporter, the fiscal impact is an unknown cost of up to \$2,986,124 annually.

**Oversight** notes that the \$20,313.77 from OSCA's response is based on calculating the highest year of service (21+ years) and each court reporter receiving EACH of the four listed raises (5.25% plus 8.25% plus 8.50% plus 8.25% - compounded). OSCA used \$60,071.70 as a base salary. Oversight notes the bill states "a court reporter may received multiple modifications under this subsection as his or her years of service increase, **but only one modification under this subsection shall apply to the annual salary at a time.**" Therefore, Oversight will assume court reporters will only realize one step increase at January 1, 2021 - that according to the years of service:

- 06-10 years of service - 5.25% (or \$63,225)
- 11-15 years of service - 8.25% (or \$65,028)
- 16-20 years of service - 8.50% (or \$65,178)
- 21+ years of service - 8.25% (or \$65,028)

Oversight notes officials from OSCA provided a listing of the current court reporters, but would not provide a start date (to calculate years of service) for each. Therefore, Oversight will have to

ASSUMPTION (continued)

make the assumption that the 147 court reporters are distributed evenly on the experience spectrum of 0 years to 25 years of service. Oversight will also make the assumption that all raises will be given as of January 1<sup>st</sup>, regardless of when in the year the court reporter hit the new step year thresholds (6, 11, 16, and/or 21 years). Therefore, Oversight will reflect 6 months of impact in FY 2021 (January 1 - June 30). In FY 2022, Oversight will reflect the other six months of the January 1, 2021 raises, and six months of the January 1, 2022 raises.

Oversight will also assume fringe benefits of roughly 33% for retirement, social security, long-term disability, basic life insurance, unemployment compensation, and workers' compensation.

**Oversight** notes, with our assumption that only one step raise will be given to court reporters on January 1, 2021, that on January 1, 2022 it is likely some court reporters will be receiving a higher salary than those with more years of service.

**Oversight notes the actual fiscal impact could vary greatly depending upon actual years of service (which we do not have) for the court reporters.**

Officials at the **Office of Administration** assume no fiscal impact from this proposal.

In response to a previous version, officials at the **City of Springfield** assumed a potential slight positive fiscal impact to the City if the City elects to utilize audio, video, or digital recording in lieu of a reporter, and if those means are less costly than a reporter.

Officials at the **City of Kansas City** and the **City of Columbia** each assume no fiscal impact to their respective entities from this proposal.

In response to a previous version, officials at the **City of O'Fallon** assumed no fiscal impact from this proposal.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other cities 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.

**Oversight** notes the proposal adds the option of audio, video, or digital recording as a means to keep records of all testimony for the Boards of Adjustment. Currently, all such records must be recorded by a reporter employed by the board for that purpose. Oversight assumes cities would choose the option that satisfies their needs, and cost savings may be a part of that decision. Therefore, Oversight will assume an impact to cities of \$0 or an unknown amount.

ASSUMPTION (continued)

Sections 160.082 and 213.012 Prohibition on Discrimination of Race

In response to similar proposals, officials from the **Department of Elementary and Secondary Education (DESE)** and **Office of the Attorney General (AGO)** each assumed the provisions would have no fiscal impact on their respective organizations.

In response to a similar proposal, officials from the **Wellsville-Middletown R-1 School District** and **Shell Knob #78 School District** 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 on the fiscal note.

Section 196.1170 - Kratom Consumer Protection Act

For the purpose of this proposed legislation, in response to HB 2061, officials from the **Office of State Public Defender (SPD)** state they cannot assume that existing staff will provide effective representation for any new cases where indigent persons are charged with the proposed new crimes regarding the drug kratom. 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 \$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 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.



ASSUMPTION (continued)

**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.

In response to HB 2061, Officials from the **City of Kansas City** state since this bill provides state regulation of the sale of kratom products, it may reduce gross receipts of businesses selling the product. In turn, this may result in a reduction of licensing fees, which are based on gross receipts, of an indeterminable amount to the City.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a \$0 or (Unknown) fiscal impact for local governments for fiscal note purposes.

**Oversight** notes the **Missouri Office of Prosecution Services** has stated the proposal would not have a measurable fiscal impact on their organization. The enactment of a new crime creates additional responsibilities for county prosecutors which may result in additional costs which are difficult to determine at the present time. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this organization.

**Oversight** notes the **Department of Health and Senior Services**, the **Office of State Courts Administrator** and the **City of Springfield** 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 organizations.

**Oversight** notes the provisions of §196.1170.7 provides that the director may, after notice and hearing, impose a fine on a dealer who violates subdivision (1) of subsection 4, of not more than \$500 dollars for the first offense and not more than \$1,000 for the second or subsequent offense. Fine revenue is distributed to school districts. It is unknown whether there will be any fines or the amount of fine revenue that may be collected. Therefore, Oversight will range fine revenues received by school districts from \$0 to Unknown for purposes of this fiscal note.

In response to HB 2016, Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

**Oversight** assumes JCAR will be able to administer any rules resulting from this proposal with existing resources.

ASSUMPTION (continued)

In response to HB 2016, Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Sections 211.439 (and repeal of §211.438) - Family court jurisdiction

Officials from the **Office of the State Courts Administrator** assumed this proposal would have the same fiscal impact as SB 793 (2018). The total cost to state general revenue to implement the proposed legislation would be at least \$14,037,937.

**Oversight** will show an unknown transfer out from General Revenue to the Juvenile Justice Preservation.

Section 301.576 Motor Vehicle Dealers

In response to a similar proposal HCS for HB 1959 (2020), officials from the **Department of Revenue, Attorney General's Office, Department of Commerce and Insurance and Office of the State Courts Administrator** each assumed the proposal would have no fiscal impact on their respective organizations.

**Oversight** notes that the agencies mentioned above have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Section 435.415 and 537.067 Enforcement of Arbitration Awards

Officials at the **Office of the State Courts Administrator, the Office of the Attorney General, the Office of Administration's Division of Accounting and the Division of General Services, the Department of Commerce and Insurance and the Missouri Department of Transportation** each assume no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Section 441.231 Penalties for Offences committed by Landlords

In response to a similar proposal, HB 1377 (2020), officials from the **Office of the State Courts Administrator** assumed the proposal would have no fiscal impact on their organization.

In response to a similar proposal, HB 1377 (2020), officials from **Department of Corrections** assumed this section makes it a class E felony for a landlord to expel a tenant on grounds protected by statute, county, or municipal ordinance.

There is no data for offenses based on section 441.231, making it difficult to judge the impact should a tenant be unlawfully evicted. Therefore, the department will use the standard response for a non-violent E felony. For each new non-violent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a non-violent 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.

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	1	1	1	1	1	1	1	1	1	1
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
<b>Change (After Legislation - Current Law)</b>										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
<b>Cumulative Populations</b>										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
<b>Impact</b>										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9	9	9	9	9	9	9	9

ASSUMPTION (continued)

\*\* 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 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** assumes the following incarceration costs:

	Cumulative Number Incarcerated	Cost of Incarceration	Cumulative Cost
Year 1	1	\$6,386	\$6,386
Year 2	2	\$6,386	\$12,772
Year 3	2	\$6,386	\$12,772

In response to a similar proposal, HB 1377 (2020), officials from **St. Louis County Police Department** assumed there are no significant costs.

ASSUMPTION (continued)

In response to a similar proposal, HB 1377 (2020), officials from **St. Louis County Department of Justice Services, Boone County Sheriff's Department, City of Kansas City and Springfield Police Department** each assumed the proposal would have no fiscal impact on their organization.

Section 451.040 Applying for Marriage License Electronically

In response to a similar proposal, HB 2366 (2020), officials at the **Mississippi County Recorder of Deeds Office** and the **Daviess County Recorder of Deeds Office** each assumed no fiscal impact to their respective entities from this proposal.

In response to similar legislation from this year, HB 1972, officials at the **Department of Health and Senior Services** assumed no fiscal impact from this proposal.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other counties and county recorder of deeds offices 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.

**Oversight** notes the legislation does not specifically address if a form will need to be created by the County Recorder of Deeds Office or if software may need to be purchased by the Office. Oversight assumes this proposal is permissive and action would only be taken by the County Recorder of Deeds Office if they have budgeted funds for this purpose and if it would benefit their county. Therefore, Oversight will reflect a \$0 fiscal note assuming any costs involved would be absorbed by the County Recorder of Deeds Office.

Section 516.099 - Product liability

In response to HB 1596 (2020), officials from the **Department of Revenue** assumed the proposal would have no fiscal impact on their organization.

In their response to a fiscal impact request for similar language in Perfected HB 186 (2019), the **Office of the Attorney General** stated the state had not received any settlements or judgments for claims where the product was 15 years or older.

Because of the consistency of responses and lack of contrary information, these provisions show \$0 direct fiscal impact to state agencies and local political subdivisions.

ASSUMPTION (continued)

Section 523.262 - Eminent Domain for Utility Purposes

**Oversight** assumes this proposal could impact the Grain Belt Express project in northern Missouri. According to a report by the Public Service Commission (File No. EM-2019-0150), the Grain Belt Express Project line is "sited to traverse Buchanan, Clinton, Caldwell, Carroll, Chariton, Randolph, Monroe and Ralls Counties, Missouri. The Grain Belt Express Project covers approximately 780 miles, and the project will primarily use a pole design which has a smaller footprint than traditional alternating current transmission lines. The structures will occupy ten acres for the entire state of Missouri." The Joint Application of Invenergy Transmission LLC, Invenergy Investment Company LLC, Grain Belt Express Clean Line LLC and Grain Belt Express Holding LLC for an Order Approving the Acquisition by Invenergy Transmission LLC of Grain Belt Express Clean Line LLC was approved by the PSC effective June 30, 2019.

**Oversight** notes this proposal narrows the scope of the bill by stating which entities are excluded from the new provisions. Oversight notes that while there may be no direct impact to the state or local governments as a result of this proposal, modifying provisions relating to the power of eminent domain for utility purposes could have an indirect impact on current and future utility projects and the revenue they generate.

Section 537.037 - COVID health care provider liability

Officials from the **City of Kansas City** assume this proposal might have a positive fiscal impact on Kansas city in an indeterminate amount by reducing th City's liability when providing ambulance services.

**Oversight** will show an Unknown savings to locals.

Section 537.115 - Shelf Stable Food

In response to a previous version, officials from the **Department of Health and Senior Services, Missouri Department of Agriculture, Office of the Attorney General, Office of the Governor, and Office of the State Courts Administrator** each assumed the proposal would have no fiscal impact on their respective organizations.

In response to a similar proposal, HB 1711 (2020), officials from the **Department of Conservation** assumed the proposal would have no fiscal impact on their organization.

ASSUMPTION (continued)

**Oversight** notes that the agencies contacted for a response have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

Section 550.125 - Change of venue for capital cases

For HB 1331, **Oversight** inquired the Office of the State Courts Administrator regarding this proposal. Information regarding a capital case can be found in the following sections of statute: §§546.720, 552.060, 565.020, 565.032, 562.051 and 576.070. Oversight notes that murder in the first or treason, both Class A Felonies, would be considered capital cases. According to the FY19 Charge Code Report from OSCA, a total of 48 guilty verdicts were charged as follows:

Jury Verdict Guilty(Class A/Unclassified)	33
Alford, Guilty, Guilty Written	8
Tried/Court Guilty	7
Treason	<u>0</u>
Total	48

**Oversight** notes that the new fund would be subject to appropriation by the General Assembly and that counties who apply for a reimbursement for a change of venue on a capital case could then receive reimbursement of costs associated with the sequestering of jurors. Oversight is unclear on how many change of venues occur for capital cases in the State of Missouri each year. Oversight notes that OSCA will disburse the money to the county if they are eligible for reimbursement. Oversight notes not all funds may be reimbursed to the county. Therefore, Oversight will reflect appropriations going to the new fund from general revenue as a \$0 to unknown and potential reimbursements to counties as a \$0 to unknown from the new fund for this proposal.

Section 565.002 - Special Victims

In response to a similar proposal, HB 2236 (2020), officials at the **Department of Elementary and Secondary Education, Office of the State Courts Administrator, Missouri Highway Patrol** and **Office of Prosecution Services** assumed this proposal has no direct fiscal impact.

In response to a similar proposal, HB 2236 (2020), officials from the **Missouri Public Defender** stated: for the purpose of the proposed legislation, and as a result of excessive caseloads, the Office of the State Public Defender CANNOT assume existing staff will provide competent,

ASSUMPTION (continued)

effective representation for any indigent clients faced with the penalties for enhanced definition of "Special Victim" to include employees of public or charter school while in the performance of their job duties. Offenses against "Special Victims" carry additional punishment. 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 Office of the 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** will show no fiscal impact for this provision.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>GENERAL REVENUE</b>			
<u>Costs -DOC - Change in P&amp;P Officers - §§575.040, 575.270 &amp; 575.280</u>			\$0 or up to...
Personal Services	\$0	\$0	(\$39,532)
Fringe Benefits	\$0	\$0	(\$24,911)
Expense and Equipment	\$0	\$0	(\$12,072)
<u>Total Cost - DOC</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$76,515)</u>
FTE Change - DOC	0 FTE	0 FTE	1 FTE
 <u>Cost - DOC - (§§575.040, 575.270 and 575.280) Increased incarceration costs</u>	 \$0 or up to (\$47,895)	 \$0 or up to (\$117,247)	 \$0 or up to (\$152,812)
 <u>Costs - salary adjustments for court reporters as of January 1st - §89.080 &amp; §485.060</u>			
Personal Service	(\$267,845)	(\$588,628)	(\$694,504)
Fringe Benefits	(\$88,630)	(\$194,777)	(\$229,811)
<u>Total Costs - OSCA</u> p. 6 - 7	<u>(\$356,475)</u>	<u>(\$783,404)</u>	<u>(\$924,315)</u>



<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>GENERAL REVENUE Continued</b>			
<u>Costs - SPD - Increase in personal service, fringe benefits and other costs from new crime -§196.1170 &amp; §565.002</u>	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<u>Transfer Out - OSCA - to Juvenile Justice Preservation Fund - (§211.438 repealed) - contingency of expansion of service from 17 to 18 removed.</u>	(Unknown - potentially significant)	(Unknown - potentially significant)	(Unknown - potentially significant)
<u>Cost - DOC - Increased incarceration costs §441.231</u>	(\$6,386)	(\$12,772)	(\$12,772)
<u>Transfer Out - Appropriated funds to the Change of Venue for Capital Cases Fund - §550.125</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b>Could substantially exceed (<u>\$510,756</u>)</b>	<b>Could substantially exceed (<u>\$1,103,423</u>)</b>	<b>Could substantially exceed (<u>\$1,266,414</u>)</b>

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
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**CHANGE OF VENUE FOR CAPITAL CASES FUND**

<u>Transfer in</u> - appropriated funds from General Revenue - §550.125	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
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Costs - OSCA - reimbursements to a county that has a change in venue on a capital case from another county that sequestered jurors	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
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**ESTIMATED NET EFFECT ON THE CHANGE OF VENUE FOR CAPITAL CASES FUND**

	<u><b>\$0 to Unknown</b></u>	<u><b>\$0 to Unknown</b></u>	<u><b>\$0 to Unknown</b></u>
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**JUVENILE JUSTICE PRESERVATION FUND**

<u>Trasfer In</u> - from General Revenue	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
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<u>Cost</u> - program distributions to local courts	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
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**ESTIMATED NET EFFECTON JUVENILE JUSTICE PRESERVATION FUND**

	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Savings</u> - Cities - Potential savings from having an option of how Boards are Equalization public meetings are recorded - \$89.080	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Income</u> - School Districts - Fine income \$196.1170 from Kratom violations	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Reduction in Revenue</u> - Cities - Reduction of licensing fees - \$196.1170	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Transfer in</u> - Juvenile Justice Preservation Fund Sweep - \$211.438 repealed	Unknown	Unknown	Unknown
<u>Savings</u> - Reduction in COVID-19 healthcare provider liability - \$537.037	Unknown	Unknown	Unknown
<u>Cost Reimbursement</u> - payments for a change of venue for a capital case held in counties - \$550.125	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>

FISCAL IMPACT - Small Business

This proposal could have a negative fiscal impact for small businesses that sell kratom products. In addition, small businesses who violate provisions of this bill may be subject to fines. (\$196.1170)

Small utility businesses and/or small businesses that are impacted by eminent domain could be impacted by this proposal.(Section 523.262)

## FISCAL DESCRIPTION

Sections 21.403, 21.405, 575.040, 575.050, 575.160, 575.270, 575.280, 575.330, and 576.030 - This bill specifies that, when a person is subpoenaed to testify or provide information at a proceeding before a body of the General Assembly, the president pro tempore or speaker of the originating body may request the court to issue an order requiring the person to testify or provide information, and if the court finds that such request has been approved by an affirmative vote of a three-fifths majority of the members of such body of the general assembly, the court shall issue an order requiring such individual to give such testimony or provide other information requested or subpoenaed by such body of the general assembly. If after being provided written notice that an order has been issued, the witness shall not refuse to comply with the order on the basis of his or her privilege against self-incrimination. 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 A misdemeanor when it is done in any proceeding before a body of the General Assembly;
- (3) The offense of tampering with a witness or victim is a class A misdemeanor, unless the original charge is a felony in which case tampering with a witness or victim is a class D felony;
- (4) The offense of tampering with a witness subpoenaed in a proceeding before a body of the General Assembly is a class E felony;
- (5) The offense of contempt of a body of the of the General Assembly after an order has been issued under section 21.403 is a class E felony;

FISCAL DESCRIPTION (continued)

Sections 89.080 and 485.060 - This bill authorizes the Board of Adjustment to keep records of all testimony, objections thereto, and rulings thereon taken by a certified court reporter, a certified electronic recorder with basic knowledge of court proceedings and terminology who may use any form of audiotape, videotape, or digital recording, or an officer of the court as provided by Supreme Court Rule 57.

Currently, all such records must be taken down by a reporter employed by the board for that purpose, but who is not required to be certified.

Beginning January 1, 2021, each court reporter for a circuit judge with a minimum of 6 years of service shall receive stepped raises based upon his or her years of service as specified in the bill.

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

Section 160.082 - Under this act, no person shall be subjected to discrimination on the basis of race in any program or activity conducted by an educational institution that receives or benefits from state financial assistance or enrolls pupils who receive state student financial aid.

The term "race", under this act, shall include traits historically associated with race, including, but not limited to, hair texture and protective hairstyles. "Protective hairstyles" shall include, but is not limited to, such hairstyles as braids, locks, and twists.

Section 196.117 - This bill establishes the "Kratom Consumer Protection Act", which requires dealers who prepare, distribute, sell, or expose for sale a food that is represented to be a kratom product to disclose on the product label the basis on which this representation is made. A dealer is prohibited from preparing, distributing, selling, or exposing for sale a kratom product that does not conform to these labeling requirements.

A dealer may not prepare, distribute, sell or expose for sale a kratom product that is adulterated or contaminated with a dangerous non-kratom substance, contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2% composition of the product, containing any synthetic alkaloids, or does not include on its package or label the amount of mitragynine, 7-hydroxymitragynine, or other synthetically derived compounds of the plant *Mitragyna speciosa*.

FISCAL DESCRIPTION (continued)

A dealer may not distribute, sell or expose for sale a kratom product to anyone under 18 years of age. The bill specifies penalties for a violation of the labeling requirements and allows for a person who is aggrieved by a violation of the labeling requirements to bring a cause of action for damages resulting from the violation. (§196.1170)

Sections 211.439 & (211.438 repealed) - This proposal modifies provisions related to the Juvenile Justice Preservation Fund.

Section 213.012 - This bill prohibits discrimination on the basis of hair texture and protective hairstyles in educational institutions that receive or benefit from state financial assistance or state student financial aid.

Section 301.576 - This bill provides that a motor vehicle dealer and persons or entities affiliated with the dealer who, in conjunction with the actual or potential sale or lease of a motor vehicle, provides or makes available to the vehicle purchaser or lessee a third-party motor vehicle report as defined in the bill is exempt from liability to the purchaser or lessee for any errors, omissions, or inaccuracies contained in the report that are not based upon information provided directly to the preparer of the report by the dealer. The exemption from liability does not apply in the case of any dealer having actual knowledge about a vehicle's accident, salvage, or service history which is different from, or not disclosed on, any third-party motor vehicle report.

Section 441.231 - This bill specifies that, if a landlord evicts a tenant in violation of any statute or county or municipal ordinance, the landlord shall be guilty of a class E felony.

Section 451.040 - This bill allows the recorder of deeds to accept electronic applications for marriage licenses through an online process.

Section 485.060 - This bill authorizes the Board of Adjustment to keep records of all testimony, objections thereto, and rulings thereon taken by a certified court reporter, a certified electronic recorder with basic knowledge of court proceedings and terminology who may use any form of audiotape, videotape, or digital recording, or an officer of the court as provided by Supreme Court Rule 57.

Currently, all such records must be taken down by a reporter employed by the board for that purpose, but who is not required to be certified.

Beginning January 1, 2021, each court reporter for a circuit judge with a minimum of 6 years of service shall receive stepped raises based upon his or her years of service as specified in the bill.

FISCAL DESCRIPTION (continued)

Section 516.099 - This bill provides that a person who is injured by a defective or unsafe condition of a product due to negligence in the design, manufacture, sale, or distribution of a product has 15 years after the sale or lease of the product to bring a claim for damages. The time limitation shall not apply to actions relating to real property, actions where a person has knowingly concealed any defective or unsafe condition in a product, actions for indemnity or contribution by a defendant, when a product has a warranty that is greater than 15 years, actions regarding negligent service or maintenance of a product, for certain products that cause respiratory or malignant disease, or to any action against a manufacturer where the harm occurred during the uses safe life of the product. The provisions of this bill apply to all civil actions commenced on or after August 28, 2020, or any new causes of action asserted in civil actions pending on that date. However, any cause of action falling within the provisions of this bill that accrued on or before August 28, 2020, may, in any event, be brought no later than August 28, 2021, unless barred by another provision of law.

Section 523.262 - This bill modifies the definition of "gas utility plant projects" as it applies to the infrastructure system replacement surcharge (ISRS) for gas corporations and specifies that no entity has the power of eminent domain for the purposes of constructing aboveground merchant lines. This restriction will not apply to any rural electric cooperatives or any electrical corporation operating under a cooperative business plan.

Section 537.037 - This proposal limits liability for health care professional providing care in connection with the COVID-19 pandemic.

Section 537.065 - This bill provides that any arbitration award shall not be enforceable against insurers, as defined in the bill, unless the insurer has agreed in writing to the arbitration proceeding or agreement. Unless otherwise required by contract, an insurer's election to not participate in arbitration shall not constitute bad faith. These provisions shall not apply to any arbitration awards arising out of an arbitration agreement preceding the date of injury or loss.

The bill specifies that a person having an unliquidated claim for damages against a tort-feasor may enter into a contract with the tort-feasor if the person's insurer has refused to withdraw a reservation of rights or declined coverage for such unliquidated claim. The bill specifies what happens if there is any action seeking a judgment on a claim against a tort-feasor at the time of the execution of any contract between the two parties, what happens if there is a pending action at the time of the execution of a contract but the action is subsequently dismissed, and what happens if there is no action seeking judgment on a claim at the time of the execution of any contract between the two parties. Any insurer who receives notice under this section will have the unconditional right to intervene in any pending civil action involving the claim for damages

FISCAL DESCRIPTION (continued)

within 30 days after receipt of the notice and insurers intervening in a court proceeding where the defendant has contracted to limit his or her liability to specified assets shall have all the same rights as are afforded to defendants. These provisions shall not alter or reduce an intervening insurer's obligations to any insureds other than the tort-feasor, including any co-insureds.

All terms of a covenant not to execute or any terms of any contract to limit recovery to specified assets must be in writing and signed by the parties to the covenant or contract. No unwritten terms of any covenant or contract under this section will be enforceable against any party to the covenant or contract or any other person or entity. In any action asserting bad faith by the insurer, any agreement between the tort-feasor and the insured will be admissible in evidence. The exercise of any rights under this section will not be construed to be bad faith.

Section 537.115 - This act defines shelf stable packaged food as any food that can be safely stored in a sealed package at room temperature for a usefully long shelf life, including packaged venison that has been processed by heat or dried to destroy foodborne microorganisms. Additionally, this act protects a good faith donor or a charitable or not-for-profit organization from criminal or civil liability arising from an injury or death due to shelf stable packaged food, including venison, if such food was received in good faith.

Section 550.125 - This bill creates the "Change of Venue for Capital Cases Fund", which will consist of money appropriated by the General Assembly. Money in the fund is to be used solely for reimbursement to a county that receives a capital case from another county. At the conclusion of a capital case for which the venue was changed from one county to another, the county that received the case may apply to the Office of State Courts Administrator (OSCA) for reimbursement of any costs associated with sequestering jurors. If a county is eligible for reimbursement, OSCA shall disburse the money to the county. If OSCA determines that a county is not eligible for reimbursement, the county in which the capital case originated shall be responsible for reimbursement.

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 Health and Senior Services  
House of Representatives  
Joint Committee on Administrative Rules  
Missouri Consolidated Healthcare Program  
Missouri Department of Conservation  
Missouri Department of Higher Education and Workforce Development  
Missouri Department of Public Safety - Missouri Veterans Commission  
Missouri Ethics Commission  
Missouri Lottery  
Missouri Office of Prosecution Services  
Office of Administration  
Office of State Courts Administrator  
Senate  
State Emergency Management Agency  
State Tax Commission  
Department of Corrections  
Department of Elementary and Secondary Education  
Office of the Attorney General  
State Public Defender's Office  
Department of Revenue  
Department of Commerce and Insurance  
Missouri Department of Transportation  
Department of Public Safety - Missouri State Highway Patrol  
Wellsville-Middletown R-1 School District  
Shell Knob #78 School District  
City of O'Fallon  
City of Springfield  
City of Kansas City  
City of Columbia  
St. Louis County Police Department  
St. Louis County Department of Justice Services  
Boone County Sheriff's Department

SOURCES OF INFORMATION (continued)

Springfield Police Department  
Mississippi County Recorder  
Daviess County Recorder



Julie Morff  
Director  
April 30, 2020



Ross Strobe  
Assistant Director  
April 30, 2020