

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0646H.01I
Bill No.: HB 166
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: February 1, 2021

Bill Summary: This proposal modifies the offense of assault in the fourth degree.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	(\$12,927)	(\$31,644)	(\$48,416)
Total Estimated Net Effect on General Revenue	(\$12,927)	(\$31,644)	(\$48,416)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other State Funds</u>	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

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
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§565.056 – Assault on a law enforcement officer

Officials from the **Department of Corrections (DOC)** state this bill modifies the offense of assault in the fourth degree by creating a class E felony for intentionally spitting on a law enforcement officer.

For each new violent class E felony, the department estimates two people will be sentenced to prison and one to probation. The average sentence for a violent class E felony offense is 4 years, of which 3 years will be served in prison with 2.2 years to first release. The remaining 1.0 year will be on parole. Probation sentences will be 4 years.

The cumulative impact on the department is estimated to be 6 additional offenders in prison and 3 additional offenders on field supervision by FY 2024.

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	2	2	2	2	2	2	2	2	2	2
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	1	1	1	1	1	1	1	1	1	1
Cumulative Populations										
Prison	2	4	6	6	6	6	6	6	6	6
Parole			0	2	2	2	2	2	2	2
Probation	1	2	3	4	4	4	4	4	4	4
Impact										
Prison Population	2	4	6	6	6	6	6	6	6	6
Field Population	1	2	3	6	6	6	6	6	6	6
Population Change	3	6	9	12	12	12	12	12	12	12

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	2	(\$7,756)	(\$12,927)	1	absorbed	\$0	(\$12,927)
Year 2	4	(\$7,756)	(\$31,644)	2	absorbed	\$0	(\$31,644)
Year 3	6	(\$7,756)	(\$48,416)	3	absorbed	\$0	(\$48,416)
Year 4	6	(\$7,756)	(\$49,384)	6	absorbed	\$0	(\$49,384)
Year 5	6	(\$7,756)	(\$50,372)	6	absorbed	\$0	(\$50,372)
Year 6	6	(\$7,756)	(\$51,380)	6	absorbed	\$0	(\$51,380)
Year 7	6	(\$7,756)	(\$52,407)	6	absorbed	\$0	(\$52,407)
Year 8	6	(\$7,756)	(\$53,455)	6	absorbed	\$0	(\$53,455)
Year 9	6	(\$7,756)	(\$54,524)	6	absorbed	\$0	(\$54,524)
Year 10	6	(\$7,756)	(\$55,615)	6	absorbed	\$0	(\$55,615)

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.

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) under Section 565.056 RSMo, concerning assault in the fourth degree, which are classified as a class A or C misdemeanor or class E felony. However, if this offense was classified as a class D misdemeanor, it would not qualify for public defender representation because it would be punishable by a fine only and, therefore, there would be no impact on SPD. 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 Natural Resources**, the **Department of Public Safety (Capitol Police and Missouri Highway Patrol)**, the **Department of Social Services**, the **Missouri Department of Conservation**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **Crestwood Police Department**, the **Ellisville Police Department**, the **Kansas City Police Department**, the **Springfield Police Department**, and 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
GENERAL REVENUE FUND			
<u>Costs – DOC</u> (\$565.056) Increased incarceration costs	<u>(\$12,927)</u>	<u>(\$31,644)</u>	<u>(\$48,416)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$12,927)</u>	<u>(\$31,644)</u>	<u>(\$48,416)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<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.

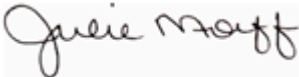
FISCAL DESCRIPTION

This bill specifies that assault in the fourth degree is a class E felony when the person knowingly causes the physical contact with another person knowing the other person will regard the contact as offensive or provocative and the other person is a law enforcement officer and the physical contact is intentionally spitting on the officer.

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 Natural Resources
Department of Public Safety
Department of Social Services
Missouri Department of Conservation
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
Crestwood Police Department
Ellisville Police Department
Kansas City Police Department
Springfield Police Department
St. Louis County Police Department



Julie Morff
Director
February 1, 2021



Ross Strobe
Assistant Director
February 1, 2021