

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0683H.01I
Bill No.: HB 302
Subject: Criminal Procedure
Type: Original
Date: January 23, 2023

Bill Summary: This proposal modifies the offense of making a false report.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
General Revenue*	Could exceed (\$15,832)	Could exceed (\$38,756)	Could exceed (\$49,414)	Could exceed (\$71,974)
Total Estimated Net Effect on General Revenue	Could exceed (\$15,832)	Could exceed (\$38,756)	Could exceed (\$49,414)	Could exceed (\$71,974)

*The bill could create claims and damages that could potentially be asserted against the state or other entities (if their employees made false reports). If such claims were successfully pursued, they could result in additional costs to the state or local political subdivisions. Oversight assumes the number of claims would be minimal and would not reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Legal Expense Fund (0692)*	\$0	\$0	\$0	\$0
Colleges and Universities	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Indicates numbers that net to zero. Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
Total Estimated Net Effect on FTE	0	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 or at full implementation of the act.
- ☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2028)
Local Government	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)	\$0 or Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§575.080 – Offense of making a false report

Officials from the **Department of Corrections (DOC)** state this proposal modifies the offense of making a false report. The changes have been summarized in the following table:

Previous Charge	Age	Type	New Charge
Class B misdemeanor	>=18	Report of misdemeanor	Class B misdemeanor
		Report of felony	Class E felony
		Report results in death or serious physical injury	Class B felony
	<18	First offense	Status Offense
		Second or subsequent violation	Class C misdemeanor

The bill creates a new class E felony and class B felony offense. For each new nonviolent class E felony, the department estimates one person could be sentenced to prison and two 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.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2026.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
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
Impact										
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

Given the seriousness of class B felony offenses and that the introduction of a completely new class B felony offense is a rare event, the department assumes the admission of one person per year to prison following the passage of the legislative proposal.

Offenders committed to prison with a class B felony as their most serious sentence who were first released sometime during fiscal years 2019, 2020 and 2021, had an average sentence length of 9.0 years and served, on average, 3.4 years in prison prior to first release. The department assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community.

The cumulative impact on the department is estimated to be 5 additional offenders in prison and 0 additional offenders on field supervision by FY 2028.

Change in prison admissions and probation openings with legislation

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
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	1	1	1	1	1	1	1	1	1	1
Probations										
Cumulative Populations										
Prison	1	2	3	4	5	5	5	5	5	5
Parole						1	2	3	4	4
Probation										
Impact										
Prison Population	1	2	3	4	5	5	5	5	5	5
Field Population						1	2	3	4	4
Population Change	1	2	3	4	5	6	7	8	9	9

Thus, the combined cumulative impact is estimated to be 7 additional offenders in prison and 7 additional offenders on field supervision by FY 2028, with a net population change of 14 new offenders.

Change in prison admissions and probation openings with legislation

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
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	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	2	4	5	6	7	7	7	7	7	7
Parole	0	0	1	1	1	2	3	4	5	5
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	2	4	5	6	7	7	7	7	7	7
Field Population	2	4	7	7	7	8	9	10	11	11
Population Change	4	8	12	13	14	15	16	17	18	18

	# 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	2	(\$9,499)	(\$15,832)	0	\$0	2	(\$15,832)
Year 2	4	(\$9,499)	(\$38,756)	0	\$0	4	(\$38,756)
Year 3	5	(\$9,499)	(\$49,414)	0	\$0	7	(\$49,414)
Year 4	6	(\$9,499)	(\$60,482)	0	\$0	7	(\$60,482)
Year 5	7	(\$9,499)	(\$71,974)	0	\$0	7	(\$71,974)
Year 6	7	(\$9,499)	(\$73,414)	0	\$0	8	(\$73,414)
Year 7	7	(\$9,499)	(\$74,882)	0	\$0	9	(\$74,882)
Year 8	7	(\$9,499)	(\$76,380)	0	\$0	10	(\$76,380)
Year 9	7	(\$9,499)	(\$77,907)	0	\$0	11	(\$77,907)
Year 10	7	(\$9,499)	(\$79,465)	0	\$0	11	(\$79,465)

If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$26.024 per day or an annual cost of \$9,499 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department's institutional caseload, the full

cost of incarceration will be used, which includes fixed costs. This cost is \$87.46 per day or an annual cost of \$31,921 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC's cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases 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.

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

Officials from the **Office of Administration (OA)** state this bill creates a civil action against a person who commits the offense of making a false report. A plaintiff bringing such a claim may recover damages, equitable relief, attorney's fees, and punitive damages in some instances. If such a claim were successfully brought against a state employee for actions arising out of and performed in connection with his or her official duties, any award would be paid out of the state Legal Expense Fund pursuant to section 105.711.2(2), RSMo. As this creates a new cause of action, this has the potential to increase claims against the Legal Expense Fund. The amount of the potential costs resulting from this proposal cannot be reasonably estimated as this language creates new legal standards, subject to judicial interpretation, and there is no readily available information that could assist in forming a rational basis for estimating costs. In addition, the number of potential claims, the severity of those claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state Legal Expense Fund, Section 105.711 RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

Because this bill creates a possible new cause of action, **Oversight** will show a net \$0 direct fiscal impact for the LEF, and a possible \$0 to (unknown) fiscal impact to General Revenue and other state funds. Oversight notes this possible litigation exposure as described by OA could also apply to colleges and universities, federal funds, as well as local political subdivisions.

Officials from the **Department of Public Safety – (Fire Safety and Missouri Highway Patrol)**, the **Department of Social Services**, the **Missouri Office of Prosecution Services**, the **Office of the State Courts Administrator**, the **Office of the State Public Defender**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, and the **Phelps County Sheriff's Department** assume the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation from 2022 (Perfecting HCS HB 1704), officials from the **Attorney General's Office** assumed the proposal will have no 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 for these agencies.

Oversight notes that violations of section §575.080 could result in fines or penalties. Oversight also notes per Article IX Section 7 of the Missouri Constitution fines and penalties collected by counties are distributed to school districts. Fine varies widely from year to year and are distributed to the school district where the violation occurred. Oversight will reflect a positive fiscal impact of \$0 to Unknown to local school districts. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other local law enforcement, fire protection districts, and ambulance/EMS were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT</u> <u>– State</u> <u>Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2028)
GENERAL REVENUE				
<u>Cost – DOC</u> p. 3-6 (§575.080) Increased incarceration costs	(\$15,832)	(\$38,756)	(\$49,414)	(\$71,974)
<u>Cost Increase –</u> OA (§575.080) Potential increase in transfer to LEF p. 6	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Could exceed</u> <u>(\$15,832)</u>	<u>Could exceed</u> <u>(\$38,756)</u>	<u>Could exceed</u> <u>(\$49,414)</u>	<u>Could exceed</u> <u>(\$71,974)</u>
OTHER STATE FUNDS				
<u>Cost Increase –</u> (§575.080) Potential increase in transfer to LEF p. 6	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>

<u>FISCAL IMPACT</u> <u>– State</u> <u>Government</u> (continued)	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2028)
LEGAL EXPENSE FUND (0692)				
<u>Transfer In – p. 6</u> (§575.080) From General Revenue	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost increase –</u> (§575.080) Increase in LEF payouts p. 6	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
ESTIMATED NET EFFECT ON THE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
COLLEGES AND UNIVERSITIES				
<u>Cost increase –</u> (§575.080) Increase in LEF payouts p. 6	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
ESTIMATED NET EFFECT ON COLLEGES AND UNIVERSITIES	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)

FEDERAL FUNDS				
Cost increase – (\$575.080) Increase in LEF payouts p. 6	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)

<u>FISCAL IMPACT</u> – Local Government	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2028)
LOCAL GOVERNMENT				
Revenue – School districts (\$575.080) Fines from violations p. 7	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Cost - (\$575.080) Increase in staff and legal costs p. 6	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>\$0 or Unknown</u> to (Unknown)	<u>\$0 or Unknown</u> to (Unknown)	<u>\$0 or Unknown</u> to (Unknown)	<u>\$0 or Unknown</u> to (Unknown)

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 making a false report if he or she knowingly makes a false report or causes a false report to be made to a law enforcement officer, security officer, fire department or other organization, official, or volunteer with reckless disregard of causing bodily harm to any person as a direct result of an emergency response.

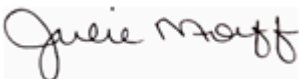
The offense of making a false report is a class B misdemeanor, but it is a class E felony if the report is a false report of a felony offense. The offense is a class B felony if the report results in death or serious physical injury as a proximate result of lawful conduct arising out of the response. A child who violates this section is guilty of a status offense for the first offense and a class C misdemeanor for a second or subsequent violation. The child must appear before a juvenile court or, in lieu, complete 30 hours of community service or pay a fine not to exceed \$250.

A person who is a victim of the offense may bring a civil action against the person who made the false report and may recover damages or other equitable relief, as well as reasonable attorneys' fees. A person who makes a false report under this bill for the purpose of infringing on another person's rights, unlawfully discriminating against another person, causing another person to be expelled from a place the person is lawfully located, or damaging another person's reputation or financial, economic, consumer, or business prospects or interests may be required to pay punitive damages in addition to any other damages allowed.

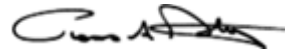
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Public Safety
Department of Social Services
Missouri Office of Prosecution Services
Office of Administration
Office of the State Courts Administrator
Office of the State Public Defender
Kansas City Police Department
St. Joseph Police Department
St. Louis County Police Department
Phelps County Sheriff's Department



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