

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3386S.02C  
Bill No.: SCS for SB Nos. 775, 751 & 640  
Subject: Crimes and Punishment; Criminal Procedure; Courts; Evidence; Sexual Offenses;  
Victims of Crime  
Type: Original  
Date: February 25, 2022

---

Bill Summary: This proposal modifies provisions relating to sexual offenses.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
General Revenue	Less than (\$27,517)	Less than (\$67,361)	Less than (\$85,885)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Less than (\$27,517)</b>	<b>Less than (\$67,361)</b>	<b>Less than (\$85,885)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
<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.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</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 2023</b>	<b>FY 2024</b>	<b>FY 2025</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 \$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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §491.015 – Prior sexual conduct of witnesses

In response to a previous version, officials from the **Office of the State Public Defender** 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 this agency.

#### §566.150 – Restrictions for certain offenders

In response to similar legislation from this year, SB 751, officials from the **Department of Corrections (DOC)** stated this proposal modifies provisions relating to location restrictions for certain offenders, adding possession of child pornography to the list of offenses that make it illegal for a person to knowingly loiter within 500 feet of certain properties. The first violation of the provisions of this section is a class E felony and a second or subsequent violation of this section is a class D felony. Thus, the bill essentially creates a new class E non-violent felony and a new non-violent class D felony for any person previously convicted under section 573.037 who loiters within 500 feet of certain properties.

For each new nonviolent class E felony, the department estimates one person will 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 2025.

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

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
<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
<b>Population Change</b>	<b>3</b>	<b>6</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>

For each new nonviolent class D felony, the department estimates three people will be sentenced to prison and five 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.

The cumulative impact on the department is estimated to be 8 additional offenders in prison and 16 additional offenders on field supervision by FY 2025.

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

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
<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	5	5	5	5	5	5	5	5	5	5
<b>Change (After Legislation - Current Law)</b>										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	5	5	5	5	5	5	5	5	5	5
<b>Cumulative Populations</b>										
Prison	3	6	8	8	8	8	8	8	8	8
Parole			1	4	7	7	7	7	7	7
Probation	5	10	15	15	15	15	15	15	15	15
<b>Impact</b>										
Prison Population	3	6	8	8	8	8	8	8	8	8
Field Population	5	10	16	19	22	22	22	22	22	22
<b>Population Change</b>	<b>8</b>	<b>16</b>	<b>24</b>	<b>27</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>

The combined cumulative impact is 10 new prison admissions and 23 new offenders in the field with a net population change of 39 offenders by FY 2025.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	7	7	7	7	7	7	7	7	7	7
<b>Change (After Legislation - Current Law)</b>										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	7	7	7	7	7	7	7	7	7	7
<b>Cumulative Populations</b>										
Prison	4	8	10	10	10	10	10	10	10	10
Parole	0	0	2	5	8	8	8	8	8	8
Probation	7	14	21	21	21	21	21	21	21	21
<b>Impact</b>										
Prison Population	4	8	10	10	10	10	10	10	10	10
Field Population	7	14	23	26	29	29	29	29	29	29
<b>Population Change</b>	<b>11</b>	<b>22</b>	<b>33</b>	<b>36</b>	<b>39</b>	<b>39</b>	<b>39</b>	<b>39</b>	<b>39</b>	<b>39</b>

	# 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	4	(\$8,255)	(\$25,517)	7	absorbed	\$0	(\$25,517)
Year 2	8	(\$8,255)	(\$67,361)	14	absorbed	\$0	(\$67,361)
Year 3	10	(\$8,255)	(\$85,885)	23	absorbed	\$0	(\$85,885)
Year 4	10	(\$8,255)	(\$87,603)	25	absorbed	\$0	(\$87,603)
Year 5	10	(\$8,255)	(\$89,355)	29	absorbed	\$0	(\$89,355)
Year 6	10	(\$8,255)	(\$91,142)	29	absorbed	\$0	(\$91,142)
Year 7	10	(\$8,255)	(\$92,965)	29	absorbed	\$0	(\$92,965)
Year 8	10	(\$8,255)	(\$94,824)	29	absorbed	\$0	(\$94,824)
Year 9	10	(\$8,255)	(\$96,720)	29	absorbed	\$0	(\$96,720)
Year 10	10	(\$8,255)	(\$98,655)	29	absorbed	\$0	(\$98,655)

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 \$22.616 per day or an annual cost of \$8,255 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 \$88.12 per day or an

annual cost of \$32,162 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** notes during the past two fiscal years, 57 people have been found guilty under §566.150:

	Felony guilty dispositions
FY 2021	29
FY 2020	28
Total	57

Of the 29 individuals convicted in FY 2021, three were charged with a D felony, and 26 were charged with an E felony. In FY 2020, all 28 individuals were convicted with an E felony.

**Oversight** notes this proposal adds offenders who have been convicted of possession of child pornography under §573.037 to the statute. Therefore, Oversight will assume DOC's estimated number of additional prisoners may be too high and will assume less than the estimate provided by DOC.

In response to similar legislation from this year, SB 751, officials from the **Missouri Department of Conservation** and the **Office of the State Public Defender** each assumed 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.

§595.201 – Sexual assault survivors

In response to similar legislation from this year, SB 640, officials from the **Office of the State Public Defender** and the **Phelps County Sheriff's Department** each assumed 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 this section.

Bill as a Whole

Officials from the **Office of the State Courts Administrator**, the **Attorney General’s Office**, the **Department of Health and Senior Services**, the **Department of Commerce and Insurance**, the **Department of Public Safety’s Office of the Director**, the **Missouri Highway Patrol**, the **Department of Social Services**, the **Missouri Office of Prosecution Services**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department** and the **Hermann Area Hospital 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 in the fiscal note for these agencies.

**Oversight** only reflects the responses received from state agencies and political subdivisions; however, other hospitals and police and sheriff’s departments 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 – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
<b>GENERAL REVENUE FUND</b>			
<u>Cost – DOC (\$566.150) Increased incarceration costs</u>	<u>Less than</u> <u>(\$27,517)</u>	<u>Less than</u> <u>(\$67,361)</u>	<u>Less than</u> <u>(\$85,885)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>Less than</u></b> <b><u>(\$27,517)</u></b>	<b><u>Less than</u></b> <b><u>(\$67,361)</u></b>	<b><u>Less than</u></b> <b><u>(\$85,885)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
	<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

§566.150 – Restrictions for certain offenders

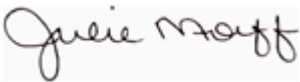
Under current law, certain offenders shall not knowingly be present in certain areas, such as public parks with playgrounds, public swimming pools, and athletic fields primarily used by children.

This act adds that any person found guilty of the offense of possession of child pornography shall not knowingly be present in such areas.

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

Office of the State Courts Administrator  
Attorney General's Office  
Office of the State Public Defender  
Missouri Office of Prosecution Services  
Department of Corrections  
Department of Public Safety  
    Office of the Director  
    Missouri Highway Patrol  
Department of Social Services  
Missouri Department of Conservation  
Department of Commerce and Insurance  
Department of Health and Senior Services  
Kansas City Police Department  
St. Louis County Police Department  
Phelps County Sheriff's Department  
Hermann Area Hospital District



Julie Morff  
Director  
February 25, 2022



Ross Strobe  
Assistant Director  
February 25, 2022