

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4045-01
Bill No.: SB 562
Subject: Firearms; Weapons; Law Enforcement Officers and Agencies; Department of Corrections; Crimes and Punishment
Type: Original
Date: January 17, 2020

Bill Summary: This proposal increases penalties for the offense of armed criminal action.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2035)
General Revenue	\$0	\$0	\$0	\$0 or (\$9,622,077)
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2035)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2035)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2035)
Total Estimated Net Effect on FTE	0	0	0	0

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2021	FY 2022	FY 2023	Fully Implemented (FY 2035)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§571.015 - Armed Criminal Action (ACA)

Officials from the **Department of Corrections (DOC)** state this legislation does not create any new criminal offenses, it increases criminal penalties for existing offenses. Because of this fact, there is no projected fiscal impact within the ten-year timeframe for fiscal note responses. However, the department does anticipate significant fiscal impact past the ten-year reporting timeframe.

Oversight contacted the DOC to determine if an estimate of costs could be provided beyond the ten-year reporting timeframe.

The **DOC** states this bill increases imprisonment terms for offenders with ACA sentences and eliminates the eligibility for probation, parole, conditional release (CR), suspended imposition of sentence (SIS), or suspended execution of sentence (SES). As this bill does not introduce new actions eligible for charges, it is not likely to have an impact on the number of offenders under the purview of the Department. However, offenders convicted of ACA will have longer sentences and longer stays in prison.

In FY 2019, 497 offenders admitted to prison had at least one ACA conviction. The average length of their longest admitting sentence was 15.7 years. By adding the difference between the minimum terms under current legislation and the minimum terms under the proposed legislation to the longest sentences for the 497 offenders admitted in FY 2019, we expect the average length of the longest admitting sentence these offenders to increase to approximately 19.4 years.

In FY 2019, 314 offenders with at least one ACA conviction were released from prison. Their average length of stay to first release was 9.4 years, which was approximately 61% of their longest admitting sentence. When we apply this same percent of sentence as time served to first release to the new average sentence length of 19.4, we can expect offenders with ACA sentences to serve, on average, approximately 11.8 years to first release.

Given the relatively long lengths of sentences and prison stays for these offenders, and the discretion of the courts in determining the length of these sentences, the exact impact on DOC operations is difficult to determine. The estimated impact does not begin to appear until FY 2032 and will not reach maximum cumulative impact on the prison population until FY 2035, when there could be 1,392 more offenders in prison and 1,392 fewer offenders under parole supervision.

ASSUMPTION (continued)

Change in prison admissions and probation openings with legislation

	FY2031	FY2032	FY2033	FY2034	FY2035	FY2036	FY2037	FY2038	FY2039	FY2040
New Admissions										
Current Law	497	497	497	497	497	497	497	497	497	497
After Legislation	497	497	497	497	497	497	497	497	497	497
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	0	0	0	0	0	0	0	0	0	0
Probations	0	0	0	0	0	0	0	0	0	0
Cumulative Populations										
Prison	0	249	746	1243	1392	1392	1392	1392	1392	1392
Parole	0	-249	-746	-1243	-1392	-1243	-746	-249	249	447
Probation	0	0	0	0	0	0	0	0	0	0
Impact										
Prison Population	0	249	746	1243	1392	1392	1392	1392	1392	1392
Field Population	0	-249	-746	-1243	-1392	-1243	-746	-249	249	447
Population Change	0	0	0	0	0	149	646	1143	1640	1839

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison (includes a 2% inflation)
FY 2031	0	(\$6,386)	\$0	0	\$	\$	\$0
FY 2032	249	(\$6,386)	(\$1,621,916)	(249)	\$	\$	(\$1,621,916)
FY 2033	746	(\$6,386)	(\$4,956,420)	(746)	\$	\$	(\$4,956,420)
FY 2034	1,243	(\$6,386)	(\$8,423,655)	(1,243)	\$	\$	(\$8,423,655)
FY 2035	1,392	(\$6,386)	(\$9,622,077)	(1,392)	\$	\$	(\$9,622,077)
FY 2036	1,392	(\$6,386)	(\$9,814,519)	(1,243)	\$	\$	(\$9,814,519)
FY 2037	1,392	(\$6,386)	(\$10,010,809)	(746)	\$	\$	(\$10,010,809)
FY 2038	1,392	(\$6,386)	(\$10,211,025)	(249)	\$	\$	(\$10,211,025)
FY 2039	1,392	(\$6,386)	(\$10,415,246)	249	\$	\$	(\$10,415,246)
FY 2040	1,392	(\$6,386)	(\$10,623,551)	447	\$	\$	(\$10,623,551)

ASSUMPTION (continued)

Oversight notes DOC's estimated impact to the prison population does not begin to appear until FY 2032 and will not reach maximum impact until FY 2035 for the prison population. For fiscal note purposes, Oversight will use DOC's current cost of incarceration of \$17.496 per day or an annual cost of \$6,386 per offender to estimate DOC's fiscal impact. Oversight will not estimate a cost or savings for probation and parole.

Oversight notes the **Office of State Courts Administrator** has 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 this agency.

Oversight notes while the bill changes the minimum imprisonment term for armed criminal actions, the last line of each subsection remains the same. So for the first offense, now raised from three years to five years, the last sentence still reads that no person shall be eligible for parole, probation or conditional release or suspended imposition or execution of sentence for a period of three calendar years. Therefore, Oversight is unsure if the actual minimum sentence was successfully changed from three years to five years. Therefore, Oversight will reflect an impact of \$0 or the amounts provided by DOC.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2035)
GENERAL REVENUE				
<u>Costs - DOC</u> §571.015) Increased incarceration costs	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0 or</u> <u>(\$9,622,077)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0 or</u> <u>(\$9,622,077)</u>

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023	Fully Implemented (FY 2035)
	<u>\$0</u>	<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

Under current law, any person who commits any felony with the use, assistance, or aid of a dangerous instrument or deadly weapon is guilty of the crime of armed criminal action which is punishable by imprisonment for a term no less than 3 years. This act increases the penalty to no less than 5 years.

Under current law, any person convicted of a second offense of armed criminal action shall be punished by imprisonment for a term no less than 5 years. This act increases the penalty to no less than 10 years.

Finally, under current law any person convicted of a third offense of armed criminal action shall be punished by imprisonment for a term no less than 10 years. This act increases the penalty to no less than 15 years.

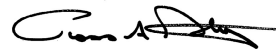
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Office of State Courts Administrator



Julie Morff
Director
January 17, 2020



Ross Strobe
Assistant Director
January 17, 2020