

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0828S.01I  
Bill No.: SB 26  
Subject: Law Enforcement Officers and Agencies; Criminal Procedure; Attorneys;  
Administrative Law  
Type: Original  
Date: January 25, 2021

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Bill Summary: This proposal creates provisions relating to disciplinary actions of law enforcement agencies.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
General Revenue*	(\$32,317)	(\$79,111)	(\$104,901)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$32,317)</b>	<b>(\$79,111)</b>	<b>(\$104,901)</b>

\*Reflects the estimated Department of Corrections expense for 5, 10, and 13 new prisoners respectively, as a result of the changes in this proposal.

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

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</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 2022</b>	<b>FY 2023</b>	<b>FY 2024</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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Local Government</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>	<b>\$0 to Unknown</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §§574.045 and 590.502 – Disciplinary actions of law enforcement agencies

Officials from the **Department of Corrections (DOC)** state this bill creates provisions relating to disciplinary actions of law enforcement agencies. A first offense of unlawful traffic interference on a public street or highway is punishable as a class A misdemeanor. A second offense is punishable as a class E felony.

The offense of unlawful traffic interference on an interstate highway is as a class E felony. The court is directed to grant a suspended imposition of sentence upon conviction for a first offense of this type.

The offense of unlawful traffic interference on any public street, highway, or interstate highway while part of an unlawful assembly is as a class D felony. The court is directed to grant a suspended imposition of sentence upon conviction for a first offense of this type.

Section 590.502 pertains to the investigation of a law enforcement officer. No misdemeanor or felony punishment is imposed by this section. The penalty of violation of provisions of this section is civil penalty amounting to \$5,000 and \$10,000. Since no felony offense is introduced in this section, it has no foreseen operational or fiscal impact on the department.

The proposed legislation under section 574.045 includes the possibility for two new class E felony offenses and one new class D felony offense.

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.

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

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
<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>

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.

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

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
<b>New Admissions</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>Probation</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>Change (After Legislation - Current Law)</b>										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	4	4	4	4	4	4	4	4	4	4
<b>Cumulative Populations</b>										
Prison	2	4	4	4	4	4	4	4	4	4
Parole			2	3	3	3	3	3	3	3
Probation	4	8	12	12	12	12	12	12	12	12
<b>Impact</b>										
Prison Population	2	4	4	4	4	4	4	4	4	4
Field Population	4	8	14	15	15	15	15	15	15	15
<b>Population Change</b>	<b>6</b>	<b>12</b>	<b>18</b>	<b>19</b>	<b>19</b>	<b>19</b>	<b>19</b>	<b>19</b>	<b>19</b>	<b>19</b>

The combined estimate of cumulative impact of the proposed legislation is up to 13 additional offenders in prison and 29 additional offenders under field supervision some time during FY 2024.

**Change in prison admissions and probation openings with legislation**

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
<b>New Admissions</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
Probation	0	0	0	0	0	0	0	0	0	0
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	9	9	9	9	9	9	9	9	9	9
<b>Change (After Legislation - Current Law)</b>										
Admissions	5	5	5	5	5	5	5	5	5	5
Probations	9	9	9	9	9	9	9	9	9	9
<b>Cumulative Populations</b>										
Prison	5	10	13	13	13	13	13	13	13	13
Parole	0	0	2	6	9	9	9	9	9	9
Probation	9	18	27	27	27	27	27	27	27	27
<b>Impact</b>										
Prison Population	5	10	13	13	13	13	13	13	13	13
Field Population	9	18	29	33	36	36	36	36	36	36
<b>Population Change</b>	<b>14</b>	<b>28</b>	<b>42</b>	<b>46</b>	<b>49</b>	<b>49</b>	<b>49</b>	<b>49</b>	<b>49</b>	<b>49</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	5	(\$7,756)	(\$32,317)	9	absorbed	\$0	(\$32,317)
Year 2	10	(\$7,756)	(\$79,111)	18	absorbed	\$0	(\$79,111)
Year 3	13	(\$7,756)	(\$104,901)	29	absorbed	\$0	(\$104,901)
Year 4	13	(\$7,756)	(\$106,999)	33	absorbed	\$0	(\$106,999)
Year 5	13	(\$7,756)	(\$109,139)	36	absorbed	\$0	(\$109,139)
Year 6	13	(\$7,756)	(\$111,322)	36	absorbed	\$0	(\$111,322)
Year 7	13	(\$7,756)	(\$113,549)	36	absorbed	\$0	(\$113,549)
Year 8	13	(\$7,756)	(\$115,820)	36	absorbed	\$0	(\$115,820)
Year 9	13	(\$7,756)	(\$118,136)	36	absorbed	\$0	(\$118,136)
Year 10	13	(\$7,756)	(\$120,499)	36	absorbed	\$0	(\$120,499)

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.

Officials from the **Department of Conservation (MDC)** state this proposal will have an unknown negative fiscal impact but likely less than \$100,000 for training.

**Oversight** notes, without elaboration from the MDC and statements of no impact from other law enforcement agencies, Oversight will assume the MDC will be able to implement the provisions within the proposal with existing resources.

Officials from the **Attorney General's Office**, the **Department of Labor and Industrial Relations**, the **Department of Natural Resources**, the **Department of Public Safety – (Capitol Police and Director's Office)**, the **Department of Social Services**, the **Missouri Department of Transportation**, the **Office of the State Courts Administrator**, the **Office of the State Public Defender**, the **Crestwood Police Department**, the **Ellisville Police Department**, the **Kansas City Police Department**, the **Springfield Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, **Missouri State University**, **State Technical College of Missouri**, the **University of Central Missouri**, and the **University of Missouri (MU)** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** assume the fiscal impact for training will be minimal and can be absorbed.

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.

Officials from the Office of Administration did not respond to **Oversight's** request for fiscal impact for this proposal.

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

Officials from the **Northwest Missouri State University (NWMSU)** state this bill will increase costs due to annual training and the additional time spent investigating policy/crimes violations.

- Average Officer Overtime Pay - \$35 Hour
- Average Administrator Pay - \$35 Hour

The bill will require annual training for seven full-time officers at a cost of \$245 ( $\$35 * 7$ ) and administrative cost \$105 ( $\$35 * 3$ ) for a total of \$305 ( $\$245 + \$105$ ) annually.

NWMSU averages four policy/criminal investigations a year involving our officers. The additional measures outlined within the bill would place an additional eight hours of work per report. This will add an additional administrative cost of \$1,120 annually. Therefore, the total annual cost would be \$1,425 ( $\$1,120 + 305$ ).

**Oversight** assumes NWMSU is provided with core funding to handle a certain amount of activity each year. Oversight assumes NWMSU could absorb the costs related to this proposal.

**Oversight** notes that violations of §§574.045 and 590.502 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.

**Oversight** only reflects the responses that we have received from state agencies and political subdivisions; however, other colleges, universities, and 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
<b>GENERAL REVENUE FUND</b>			
<u>Cost - DOC</u> (\$574.045) Increased incarceration costs (additional prisoners)	<u>(\$32,317)</u>	<u>(\$79,111)</u>	<u>(\$104,901)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(\$32,317)</u></b>	<b><u>(\$79,111)</u></b>	<b><u>(\$104,901)</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>POLITICAL SUBDIVISIONS</b>			
<u>Revenue – School districts (§§574.045 and 590.502) Fines from violations</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>	<b><u>\$0 to Unknown</u></b>	<b><u>\$0 to Unknown</u></b>	<b><u>\$0 to Unknown</u></b>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.



## FISCAL DESCRIPTION

This act creates provisions relating to public safety.

### OFFENSE OF UNLAWFUL TRAFFIC INTERFERENCE (Section 574.045)

This act creates the offense of unlawful traffic interference if, with the intention to impede vehicular traffic, the person walks, stands, sits, kneels, lays, or places an object in a manner that blocks passage by a vehicle on any public street or highway.

This offense is a Class A misdemeanor if a person blocks a public street for the first violation and a Class E felony for any subsequent violation.

This offense is a Class E felony if a person blocks an interstate highway.

This offense is a Class D felony if a person blocks a street or highway as part of an unlawful assembly.

### LAW ENFORCEMENT OFFICER DISCIPLINARY ACTIONS (Section 590.502)

This act provides that when a law enforcement officer is under investigation which could lead to disciplinary action, demotion, dismissal, transfer, or placement that could lead to economic loss, the investigation shall include the following conditions:

- The law enforcement officer shall be informed in writing of the existence and nature of the alleged violation and who will be conducting the investigation;
- Any complaint filed shall be supported by an affidavit and if information in the affidavit is false then it shall be presented to a prosecuting or circuit attorney;
- Any investigation shall be conducted for a reasonable length of time and only while the officer is on duty unless any exigent circumstances prevent such questioning while on duty;
- Any investigation shall be conducted at a secure location at the agency that is conducting the investigation or the office of the officer unless the officer consents to another location;
- The law enforcement officer shall be questioned by a single investigator and shall be informed of the name and rank of the questioning officer;
- Law enforcement officers shall not be threatened, harassed, or promised rewards for answering questions, except that a law enforcement officer may be compelled to give protected statements to an investigator under direct control of the agency;

- Law enforcement officers are entitled to have an attorney or duly authorized representative present during questioning and prior to the questioning the officer and his or her representative shall have the opportunity to review any audio or video in the possession of the agency;
- A complete record of the investigation shall be kept by the agency and a copy shall be provided to the officer upon request;
- The agency conducting the investigation shall have 90 days to complete such investigation and may extend the investigation under certain circumstances;
- The officer shall be informed in writing within 5 days of the conclusion of the investigative findings and any recommendations for further action; and
- A complete record of the administrative investigation shall be kept by the law enforcement agency and all records shall be confidential.

Any law enforcement officer suspended without pay shall be entitled to a full due process hearing as provided in the act. If the law enforcement officer is entitled to a hearing, a hearing shall be scheduled no more than 120 days following the notification of discipline, unless waived by the charged law enforcement officer. Any decision following the hearing shall be in writing and shall include findings of fact.

This act provides that law enforcement officers shall have the opportunity to provide a written responses to any adverse materials in their personnel file. Law enforcement officers shall not receive separate punishments for the same alleged act by multiple administrative bodies.

Employers shall defend and indemnify law enforcement officers against civil claims made against an officer while the officer was acting within his or her duties as a law enforcement officer. If any criminal convictions arise out of the same conduct, the employer is no longer obligated to defend the officer in the civil claim. Law enforcement officers shall not be disciplined or dismissed as a result of the assertion of their constitutional rights in any judicial proceeding.

This act provides that a law enforcement officer may bring an action for enforcement of these provisions in the circuit court for the county in which the law enforcement agency or governmental body has its principal place of business. If the court finds that the law enforcement agency or governmental body violated the provisions of this act, the court may impose a civil penalty in the amount up to \$5,000 for each violation. Upon a find by a preponderance of the evidence that a law enforcement agency or governmental body has purposely violated this act, the court may impose a civil penalty in the amount of up to \$10,000.

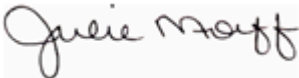
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office  
Department of Corrections  
Department of Labor and Industrial Relations  
Department of Natural Resources  
Department of Public Safety  
Department of Social Services  
Missouri Department of Conservation  
Missouri Department of Transportation  
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. Joseph Police Department  
St. Louis County Police Department  
Missouri State University  
Northwest Missouri State University  
State Technical College of Missouri  
University of Central Missouri  
University of Missouri

NOT RESPONDING

Office of Administration



Julie Morff  
Director  
January 25, 2021



Ross Strobe  
Assistant Director  
January 25, 2021