

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4093S.01I
Bill No.: SB 751
Subject: Crimes and Punishment; Sexual Offenses; Children and Minors
Type: Original
Date: February 9, 2022

Bill Summary: This proposal modifies provisions relating to location restrictions for certain offenders.

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
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 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 2023	FY 2024	FY 2025
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§566.150 – Restrictions for certain offenders

Officials from the **Department of Corrections (DOC)** state 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
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

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
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	5	5	5	5	5	5	5	5	5	5
Cumulative Populations										
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
Impact										
Prison Population	3	6	8	8	8	8	8	8	8	8
Field Population	5	10	16	19	22	22	22	22	22	22
Population Change	8	16	24	27	30	30	30	30	30	30

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
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	7	7	7	7	7	7	7	7	7	7
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	7	7	7	7	7	7	7	7	7	7
Cumulative Populations										
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
Impact										
Prison Population	4	8	10	10	10	10	10	10	10	10
Field Population	7	14	23	26	29	29	29	29	29	29
Population Change	11	22	33	36	39	39	39	39	39	39

	# 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 charged under §566.150:

	Felony Charges
FY 2021	29
FY 2020	28
Total	57

Of the 29 individuals charged 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 charged 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.

Officials from the **Attorney General's Office**, the **Department of Public Safety - 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**, and the **Office of the State Public Defender** assume 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.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
<u>Cost – DOC (§566.150) Increased incarceration costs p. 3-6</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>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Less than</u> <u>(\$27,517)</u>	<u>Less than</u> <u>(\$67,361)</u>	<u>Less than</u> <u>(\$85,885)</u>

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

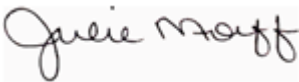
Under current law, certain offenders shall not knowingly be present in certain areas, such as public parks with playgrounds, public swimming pools, and athletic fields primarily used by children.

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

Attorney General's Office
Department of Corrections
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



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February 9, 2022



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