

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4329S.03C
 Bill No.: SCS for SB 850
 Subject: Department of Corrections; Crimes and Punishment; Firearms; Prisons and Jails;
 Law Enforcement Officers and Agencies; Courts; Criminal Procedure; Probation
 and Parole; Judges
 Type: Original
 Date: February 25, 2022

Bill Summary: This proposal modifies provisions relating to criminal laws.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2029)
General Revenue	(\$41,275)	(\$101,041)	(\$274,832)	(\$882,440)
Total Estimated Net Effect on General Revenue	(\$41,275)	(\$101,041)	(\$274,832)	(\$882,440)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2029)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2023	FY 2024	FY 2025	Fully Implemented (FY 2029)
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 2023	FY 2024	FY 2025	Fully Implemented (FY 2029)
General Revenue	0 FTE	0 FTE	0 FTE	1 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	0 FTE	1 FTE

- 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	Fully Implemented (FY 2029)
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§217.690 – Eligibility for parole

Officials from the **Department of Corrections (DOC)** state this proposal modifies provisions relating to criminal laws.

This section requires offenders with a conviction of murder in the second degree for an offense committed when under the age of 18 years to serve a longer period of incarceration prior to consideration for parole.

There are currently 201 offenders in prison who are both: 1) incarcerated only on a sentence, or a combination of sentences, for offenses committed when they were less than 18 years, and 2) serving a sentence for a conviction of murder in the second degree. Of those 201 offenders, nine are excluded from consideration for having a prior release from prison. Of the remaining 192 offenders, 65 have been incarcerated for 15 years or more. Given the parole board is currently reviewing these cases, DOC assumes the passage of this proposal would result in these 65 individuals remaining in prison.

§544.170 – Period of detention

In response to similar legislation (SB 130) from 2021, officials from the **Boone County Sheriff's Department** stated over the last several years, the department has seen a large increase in those persons arrested on felony charges. At this time, the jail is housing just six misdemeanor detainees with more than 200 detainees' total. The extension to 48 hours for certain felony arrestees will result in an increase in the amount of time a felony arrestee is housed in the jail. The daily average cost to house a detainee is around \$60 a day. The jail intakes 8-12 persons a day. Therefore, the department estimates the housing cost will increase \$120 a day.

In response to similar legislation (SB 130) from 2021, officials from the **Lewis County Sheriff's Department** stated impact will vary dependent on size and scope of jurisdiction. The cost per day will also vary from jurisdiction. Generally, the cost of incarceration ranges from \$45 per day to \$80 per day. Departments must consider new booking data and calculate the release of these types of inmate.

In response to similar legislation (SB 130) from 2021, officials from the **Crestwood Police Department** stated this 48 hour detention period could have a fiscal impact, though not terribly burdensome, on the department for the extra meals the city would provide to the suspect/prisoner.

In response to similar legislation (SB 130) from 2021, officials from the **Ellisville Police Department** stated this would have a positive impact from a criminal investigation standpoint. The minor fiscal impact of housing someone an extra day is greatly offset by the positive nature of this change.

Oversight notes the statements of fiscal impact and no impact to various police and sheriff's departments. Oversight is unable to project a statewide impact to local jailers for the additional time some persons may be kept in custody. Oversight will reflect an impact to local governments as \$0 to (Unknown) additional costs, but as stated above, this additional time would be beneficial to law enforcement agencies. Oversight notes this proposal is permissive and allows more flexibility to local law enforcement.

§§558.016, 558.019, 571.015, and 571.070 – Criminal laws

Officials from the **Department of Corrections (DOC)** state this proposal intends to extend the amount of time an offender spends in prison prior to first release when admitted on an Armed Criminal Action (ACA) sentence. Given ACA sentences are already defined as dangerous felonies, which require a minimum prison term of 85% of the length of the sentence prior to first release and current legislation requires all ACA sentences to be served consecutive to other sentences, DOC estimates that the proposed changes to the sentencing for ACA offenses presents minimal to no potential to impact department operations.

The proposal also intends to increase the penalties associated with first and subsequent convictions related to the unlawful possession of a firearm.

There were 70 offenders admitted to prison in FY 2021 on a new court commitment for unlawful possession of a firearm as their most serious sentence. Of those, two had a prior conviction for a dangerous felony or unlawful possession of a firearm. Therefore, DOC estimates the impact based on 68 new court commitments per year as class C felonies instead of class D felonies and two new court commitments per year as class B felonies instead of class C felonies.

Change from class D felony to class C felony

The difference in average sentence lengths between a nonviolent class D felony and a class C felony is 1.9 years. The difference in average time to first release from prison for a nonviolent class D felony and a class C felony is 0.4 years. When these differences are applied to 68 new court commitments annually, this equates to maximum cumulative impact of approximately 61 additional offenders in prison and 68 additional offenders on field supervision after seven years.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	68	68	68	68	68	68	68	68	68	68
After Legislation	68	68	68	68	68	68	68	68	68	68
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										
Probations										
Cumulative Populations										
Prison			14	61	61	61	61	61	61	61
Parole			-14	-61	-61	7	68	68	68	68
Probation										
Impact										
Prison Population			14	61	61	61	61	61	61	61
Field Population			-14	-61	-61	7	68	68	68	68
Population Change	0	0	0	0	0	68	129	129	129	129

Change from class C felony to class B felony

The difference in an average sentence length between a class C felony and a class D felony is 2.1 years. The difference in average time to first release from prison for a class C felony and a class D felony is 1.3 years. When these differences are applied to two new court commitments annually, this equates to maximum cumulative impact of approximately three additional offenders in prison and one additional offenders on field supervision after nine years.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	2	2	2	2	2	2	2	2	2	2
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	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions										
Probations										
Cumulative Populations										
Prison				1	3	3	3	3	3	3
Parole				-1	-3	-3	-3	-1	1	1
Probation										
Impact										
Prison Population				1	3	3	3	3	3	3
Field Population				-1	-3	-3	-3	-1	1	1
Population Change	0	0	0	0	0	0	0	2	4	4

§§575.353, 578.007, and 578.022 – Offenses against police dogs

DOC states this proposal modifies provisions relating to offenses against police dogs. According to section 575.353, a person commits the offense of assault on a law enforcement animal if he or

she knowingly attempts to kill or disable or knowingly causes or attempts to cause serious physical injury to a law enforcement animal when that animal is involved in law enforcement investigation, apprehension, tracking, or search, or the animal is in the custody of or under the control of a law enforcement officer, department of corrections officer, municipal police department, fire department or a rescue unit or agency.

The offense of assault on a law enforcement animal is a class A misdemeanor, if the law enforcement animal is not injured to the point of requiring veterinary care or treatment; a class E felony if the law enforcement animal is seriously injured to the point of requiring veterinary care or treatment; and a class D felony if the assault results in the death of such animal.

For each new violent class E felony, the department estimates two people will be sentenced to prison and one to probation. The average sentence for a violent class E felony offense is 4 years, of which 3 years will be served in prison with 2.2 years to first release. The remaining 1.0 year will be on parole. Probation sentences will be 4 years.

The cumulative impact on the department is estimated to be 6 additional offenders in prison and 3 additional offenders on field supervision 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	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	1	1	1	1	1	1	1	1	1	1
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	1	1	1	1	1	1	1	1	1	1
Cumulative Populations										
Prison	2	4	6	6	6	6	6	6	6	6
Parole				2	2	2	2	2	2	2
Probation	1	2	3	4	4	4	4	4	4	4
Impact										
Prison Population	2	4	6	6	6	6	6	6	6	6
Field Population	1	2	3	6	6	6	6	6	6	6
Population Change	3	6	9	12	12	12	12	12	12	12

For each new violent class D felony, the department estimates four people will be sentenced to prison and four to probation. The average sentence for a violent class D felony offense is 5.7 years, of which 4 years will be served in prison with 3 years to first release. The remaining 1.7 years will be on parole. Probation sentences will be 4 years.

The cumulative impact on the department is estimated to be 16 additional offenders in prison and 16 additional offenders on field supervision by FY 2026.

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	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	4	8	12	16	16	16	16	16	16	16
Parole					4	7	7	7	7	7
Probation	4	8	12	16	16	16	16	16	16	16
Impact										
Prison Population	4	8	12	16	16	16	16	16	16	16
Field Population	4	8	12	16	20	23	23	23	23	23
Population Change	8	16	24	32	36	39	39	39	39	39

Combined Estimated Cumulative Impact

The combined estimated cumulative impact of the proposed legislative changes is 86 additional offenders in prison and 94 additional offenders on field supervision by FY 2029.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	70	70	70	70	70	70	70	70	70	70
After Legislation	76	76	76	76	76	76	76	76	76	76
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	6	6	6	6	6	6	6	6	6	6
Probations	5	5	5	5	5	5	5	5	5	5
Cumulative Populations										
Prison	6	12	32	84	86	86	86	86	86	86
Parole	0	0	-14	-60	-58	13	74	76	78	78
Probation	5	10	15	20	20	20	20	20	20	20
Impact										
Prison Population	6	12	32	84	86	86	86	86	86	86
Field Population	5	10	1	-40	-38	33	94	96	98	98
Population Change	11	22	33	44	48	119	180	182	184	184

	# 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	6	(\$8,255)	(\$41,275)	0	\$0	5	(\$41,275)
Year 2	12	(\$8,255)	(\$101,041)	0	\$0	10	(\$101,041)
Year 3	32	(\$8,255)	(\$274,832)	0	\$0	1	(\$274,832)
Year 4	84	(\$8,255)	(\$735,863)	0	\$0	(40)	(\$735,863)
Year 5	86	(\$8,255)	(\$768,451)	0	\$0	(38)	(\$768,451)
Year 6	86	(\$8,255)	(\$783,820)	0	\$0	33	(\$783,820)
Year 7	86	(\$8,255)	(\$799,496)	1	(\$82,944)	94	(\$882,440)
Year 8	86	(\$8,255)	(\$815,486)	1	(\$74,255)	96	(\$889,741)
Year 9	86	(\$8,255)	(\$831,796)	1	(\$75,060)	98	(\$906,856)
Year 10	86	(\$8,255)	(\$848,432)	1	(\$75,873)	98	(\$924,305)

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 the DOC stated an (Unknown) fiscal impact in SB 664. However, for purposes of this fiscal note, DOC assumes the passage of section 217.690 would result in the 65

individuals remaining in prison. Therefore, Oversight will reflect DOC's estimated impact for fiscal note purposes.

In response to similar legislation from 2022 (SB 765), officials from the **Greenwood Police Department** and the **St. Joseph Police 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 those agencies.

Bill as a Whole

Officials from the **Attorney General's Office**, the **Department of Natural Resources**, the **Department of Public Safety – (Capitol Police and Missouri Highway Patrol)**, the **Department of Social Services**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, 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. Louis County Police Department**, and the **Phelps County Sheriff's Department** 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.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other 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	Fully Implemented (FY 2029)
GENERAL REVENUE FUND				
<u>Cost – DOC - (§§217.690, 571.070, 575.353) Increase in P&P officers (p. 3-9)</u>				
Personal service	\$0	\$0	\$0	(\$41,137)
Fringe benefits	\$0	\$0	\$0	(\$28,299)
Equipment and expense	\$0	\$0	\$0	(\$13,508)
<u>Total cost – DOC</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$82,944)</u>
FTE Change – DOC	0 FTE	0 FTE	0 FTE	1 FTE
<u>Cost – DOC (§§217.690, 571.070, 575.353) Increased incarceration costs (p. 3-9)</u>	<u>(\$41,275)</u>	<u>(\$101,041)</u>	<u>(\$274,832)</u>	<u>(\$799,496)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$41,275)</u>	<u>(\$101,041)</u>	<u>(\$274,832)</u>	<u>(\$882,440)</u>
Estimated Net FTE Change for the General Revenue Fund	0 FTE	0 FTE	0 FTE	1 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025	Fully Implemented (FY 2029)
POLICE AND SHERIFF’S DEPARTMENTS				
<u>Cost - Police and Sheriff’s Departments</u> (§544.170) Increased costs to house individuals kept in custody longer (p. 3-4)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON THE POLICE AND SHERIFF’S DEPARTMENTS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

ELIGIBILITY FOR PAROLE (Section 217.690)

Under current law, a person sentenced to a term or terms of imprisonment amounting to 15 years or more when such person was under the age of 18, is eligible for parole after serving 15 years, unless such person was found guilty of murder in the first degree.

This act adds that such a person will also be ineligible for parole if he or she was found guilty of murder in the second degree.

PERIOD OF DETENTION (Section 544.170)

Under current law, all persons arrested and confined in any jail, without warrant or other process, for any alleged breach of the peace or other criminal offense, shall be discharged from custody within 24 hours from the time of arrest, unless they are charged with a criminal offense.

This act changes the period of detention on arrest without a warrant to 48 hours if a person is arrested for a criminal offense involving a dangerous felony or deadly weapon.

MINIMUM PRISON TERMS FOR ARMED CRIMINAL ACTION (Sections 558.019 & 571.015)

Under current law, certain offenses are excluded from minimum prison terms for offenders who also have prior felony convictions. This act repeals the exclusion of the offense of armed criminal action.

This act also modifies the minimum prison terms for the offense of armed criminal action. For a person convicted of a first offense of armed criminal action, the term of imprisonment shall be no less than 3 years. For a person convicted of a second offense of armed criminal action, the term of imprisonment shall be no less than 5 years. Additionally, this act provides that a person convicted of armed criminal action shall not be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence.

OFFENSE OF UNLAWFUL POSSESSION OF FIREARMS (Section 571.070)

Under current law, unlawful possession of a firearm is a Class D felony, unless a person has been convicted of a dangerous felony then it is a Class C felony.

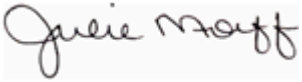
This act changes the penalty for the offense to a Class C felony, unless a person has been convicted of a dangerous felony or the person has a prior conviction for unlawful possession of a firearm, then it is a Class B felony.

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

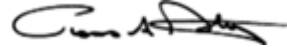
SOURCES OF INFORMATION

Attorney General's Office
Department of Natural Resources
Department of Corrections
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
St. Louis County Police Department
Boone County Sheriff's Department
Lewis County Sheriff's Department
Phelps County Sheriff's Department

L.R. No. 4329S.03C
Bill No. SCS for SB 850
Page **13** of **13**
February 25, 2022



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