

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4377H.01I  
Bill No.: HB 1880  
Subject: Crimes and Punishment; Drugs and Controlled Substances; Health, Public  
Type: Original  
Date: February 1, 2022

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Bill Summary: This proposal prohibits the inhalation of certain substances.

**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	\$0 to (\$20,638)	\$0 to (\$50,521)	\$0 to (\$68,708)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 to (\$20,638)</b>	<b>\$0 to (\$50,521)</b>	<b>\$0 to (\$68,708)</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 State Funds</u></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**

**§§579.097 and 579.101 – Inhalation of substances**

Officials from the **Department of Corrections (DOC)** state this proposal adds more substances to the list which is prohibited from smelling and inhaling. Changes are also made to section 579.101, which prohibits the possession and/or purchasing of the same substances. Changes are also made to the penalties for offenses covered under 579.097 and 579.101. A first violation of these sections is changed from a class B misdemeanor to a class D misdemeanor. A second violation is a class A misdemeanor instead of a class E felony. A third violation of these sections is now a class D felony.

There have been no new commitments to prison for offenses under these sections from FY 2018 through FY 2021. Therefore, DOC estimates an impact of the proposed changes as the equivalent of a new class D felony.

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.

	# to prison	Cost per year	Total Costs for <b>prison</b>	# to probation & parole	Cost per year	Total cost for <b>probation and parole</b>	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	3	(\$8,255)	(\$20,638)	5	absorbed	\$0	(\$20,638)
Year 2	6	(\$8,255)	(\$50,521)	10	absorbed	\$0	(\$50,521)
Year 3	8	(\$8,255)	(\$68,708)	16	absorbed	\$0	(\$68,708)
Year 4	8	(\$8,255)	(\$70,082)	19	absorbed	\$0	(\$70,082)
Year 5	8	(\$8,255)	(\$71,484)	22	absorbed	\$0	(\$71,484)
Year 6	8	(\$8,255)	(\$72,913)	22	absorbed	\$0	(\$72,913)
Year 7	8	(\$8,255)	(\$74,372)	22	absorbed	\$0	(\$74,372)
Year 8	8	(\$8,255)	(\$75,859)	22	absorbed	\$0	(\$75,859)
Year 9	8	(\$8,255)	(\$77,376)	22	absorbed	\$0	(\$77,376)
Year 10	8	(\$8,255)	(\$78,924)	22	absorbed	\$0	(\$78,924)

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.

Due to the historic infrequency of convictions for this offense, **Oversight** will reflect DOC's impact as \$0 (no additional offenses committed) to the estimate provided by DOC to the General Revenue Fund.

Officials from the **Attorney General's Office**, the **Department of Public Safety - Missouri Highway Patrol**, 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 organizations. **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
<b>GENERAL REVENUE FUND</b>			
<u>Cost – DOC (§579.101) Increased incarceration costs p. 3-4</u>	<u>\$0 to (\$20,638)</u>	<u>\$0 to (\$50,521)</u>	<u>\$0 to (\$68,708)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>\$0 to (\$20,638)</u></b>	<b><u>\$0 to (\$50,521)</u></b>	<b><u>\$0 to (\$68,708)</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

This bill make changes to existing statute prohibiting a person from intentionally smelling or inhaling the fumes of a solvent for the purposes of inducing certain symptoms.

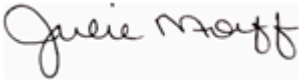
The current penalty of violations under the provisions of the sections related to inhaling certain substances is a class B misdemeanor for the first violation and a class E felony for any subsequent violation. Under this bill, the first violation is a class D misdemeanor and participation in a drug treatment program if allowed by law; a second violation is a class A misdemeanor; and any subsequent violation is a class D felony.

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

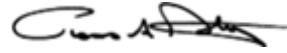
SOURCES OF INFORMATION

Attorney General’s Office  
 Department of Corrections  
 Department of Public Safety  
 Missouri Office of Prosecution Services  
 Office of the State Courts Administrator  
 Office of the State Public Defender

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