

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5351H.03C
 Bill No.: HCS for HB Nos. 2576 & 1433
 Subject: Crimes and Punishment; Criminal Procedure; Drugs and Controlled Substances
 Type: Original
 Date: March 1, 2024

Bill Summary: This proposal modifies the offenses of trafficking of drugs in the first and second degree.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue*	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue	(Unknown)	(Unknown)	(Unknown)

*Oversight assumes the fiscal impact could exceed the \$250,000 threshold. Oversight notes there were 97 new prison admissions for 1st and 2nd degree drug trafficking in FY 2023. To reach the \$250,000 threshold, an additional 26 prisoners would be required to be imprisoned or remain in prison (if a more severe charge) at the estimated incarceration rate of \$9,689 cost per year per prisoner.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
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 2025	FY 2026	FY 2027
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§579.065 and 579.068 – Trafficking drugs

In response to a previous version, officials from the **Department of Corrections (DOC)** stated this proposal modifies the offenses of trafficking drugs in the first and second degree. The bill modifies sections 579.065 and 579.068 by adjusting the amounts of fentanyl and carfentanil associated with the definitions and penalties for drug trafficking in the first degree and drug trafficking in the second degree.

Section 579.065 changes the minimum amount of fentanyl from ten to three milligrams and any amount of carfentanil. Section 579.068 changes the minimum amount of fentanyl from twenty to fourteen and more than five hundredths milligram of carfentanil.

Section 579.065 - In FY 2023, there were 18 new prison admissions and 12 new probation cases for 1st degree drug trafficking.

Section 579.068 - In FY 2023, there were 79 new prison admissions and 90 new probation cases for 2nd degree drug trafficking.

When an offender is sentenced to imprisonment, the department receives a sentence and judgement form which contains information on the conviction(s) and sentence(s). Most sentence and judgement forms for drug related offenses do not notate the type or amount of the drug associated with the conviction. Given that the drug associated with the offense and any amount associated with the drug is unknown in the majority of cases, the department is unable to estimate the number of new admissions related to the possession and/or distribution of fentanyl or carfentanil. Therefore, the DOC will assume an unknown impact to this legislation.

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's estimated (unknown) impact for fiscal note purposes.

In response to a previous version, officials from the **Office of Attorney General (AGO)** assumed any potential litigation costs arising from this proposal can be absorbed with existing resources. However, the AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Officials from 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** each assume 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 these agencies.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
GENERAL REVENUE			
<u>Costs – DOC (§§579.065 and 579.068)</u> Changes to trafficking drugs felony charges relating to fentanyl/carfentanil	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<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

DRUG TRAFFICKING (Sections 579.065 and 579.068)

This bill amends the offenses of drug trafficking in the first degree and drug trafficking in the second degree.

Currently, trafficking drugs in the first degree is a class B felony if the person knowingly distributes, delivers, manufactures, or produces, or attempts to distribute, deliver, manufacture, or produce more than 10 milligrams of fentanyl. It is a class A felony if the amount is 20 milligrams or more.

Trafficking drugs in the second degree is a class C felony if the person knowingly possesses or has under his or her control, purchases or attempts to purchase, or brings into this state more than 10 milligrams of fentanyl, and is a class B felony if the amount is 20 milligrams or more.

This bill amends the quantities of fentanyl for the offense of trafficking of drugs, in the first and second degree, as follows:

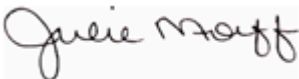
- (1) Drug trafficking in the first degree is a class B felony for more than three but less than 14 milligrams of fentanyl;
- (2) Drug trafficking in the first degree is a class A felony for more than 14 milligrams of fentanyl;
- (3) Drug trafficking in the second degree is a class C felony for more than three but less than 14 milligrams of fentanyl;
- (4) Drug trafficking in the second degree is a class B felony for more than 14 milligrams of fentanyl.

Under the offense of trafficking drugs in the first degree, trafficking any amount of carfentanil up to .05 milligrams is a class B felony, and trafficking more than .05 milligrams is a class A felony. Under the offense of trafficking drugs in the second degree, trafficking any amount of carfentanil up to .05 milligrams is a class C felony, and trafficking more than .05 milligrams 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 Corrections
Department of Public Safety - Missouri Highway Patrol
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender



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March 1, 2024



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March 1, 2024