

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5629H.01I
 Bill No.: HB 2700
 Subject: Crimes and Punishment; Criminal Procedure; Drugs and Controlled Substances
 Type: Original
 Date: February 21, 2024

Bill Summary: This proposal modifies the offense of delivery of a controlled substance.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
General Revenue	Less than (\$16,148)	Less than (\$39,531)	Less than (\$60,483)	Less than (\$173,689)
Total Estimated Net Effect on General Revenue	Less than (\$16,148)	Less than (\$39,531)	Less than (\$60,483)	Less than (\$173,689)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
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 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
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 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
Total Estimated Net Effect on FTE	0	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	Fully Implemented (FY 2034)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§579.020 – Delivery of a controlled substance

Officials from the **Department of Corrections (DOC)** state this proposal modifies the offense of delivery of a controlled substance.

The bill modifies section 579.020 to include penalty provisions for the offense of delivering a schedule I or schedule II controlled substance causing great bodily harm. These actions are considered a class B felony offense.

The bill modifies section 579.020 to include penalty provisions for the offense of delivering a schedule I or schedule II controlled substance causing death. These actions are considered a class A felony offense.

Given the seriousness of class B felony offenses and that the introduction of a completely new class B felony offense is a rare event, the department assumes the admission of one person per year to prison following the passage of the legislative proposal.

Offenders committed to prison with a class B felony as their most serious sentence, have an average sentence length of 9.0 years and served, on average, 3.4 years in prison prior to first release. The department assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community.

Change in prison admissions and probation openings with legislation-Class B Felony

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
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	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations										
Cumulative Populations										
Prison	1	2	3	4	5	5	5	5	5	5
Parole						1	2	3	4	4
Probation										
Impact										
Prison Population	1	2	3	4	5	5	5	5	5	5
Field Population						1	2	3	4	4
Population Change	1	2	3	4	5	6	7	8	9	9

Given the seriousness of class A felony offenses and that the introduction of a completely new class A felony offense is a rare event, the department assumes the admission of one person per year to prison following the passage of the legislative proposal.

Offenders committed to prison with a class A felony have an average sentence length of 17.1 years and serve, on average, 12.3 years in prison prior to first release. The department assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community.

The sentence lengths associated with these offenses pushes the estimate of total cumulative impact on the department beyond the 10-year time frame of this fiscal note. However, the estimated impact by FY 2034 is 10 additional offenders in prison.

Change in prison admissions and probation openings with legislation

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
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	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations										
Cumulative Populations										
Prison	1	2	3	4	5	6	7	8	9	10
Parole										
Probation										
Impact										
Prison Population	1	2	3	4	5	6	7	8	9	10
Field Population										
Population Change	1	2	3	4	5	6	7	8	9	10

Combined Cumulative Estimated Impact

The combined cumulative estimated impact on the department is 15 additional offenders in prison and 4 additional offenders on field supervision by FY 2034.

Change in prison admissions and probation openings with legislation

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
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	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	2	2	2	2	2	2	2	2	2	2
Probations	0	0	0	0	0	0	0	0	0	0
Cumulative Populations										
Prison	2	4	6	8	10	11	12	13	14	15
Parole	0	0	0	0	0	1	2	3	4	4
Probation	0	0	0	0	0	0	0	0	0	0
Impact										
Prison Population	2	4	6	8	10	11	12	13	14	15
Field Population	0	0	0	0	0	1	2	3	4	4
Population Change	2	4	6	8	10	12	14	16	18	19

	# 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	2	(\$9,689)	(\$16,148)	0	\$0	0	(\$16,148)
Year 2	4	(\$9,689)	(\$39,531)	0	\$0	0	(\$39,531)
Year 3	6	(\$9,689)	(\$60,483)	0	\$0	0	(\$60,483)
Year 4	8	(\$9,689)	(\$82,256)	0	\$0	0	(\$82,256)
Year 5	10	(\$9,689)	(\$104,877)	0	\$0	0	(\$104,877)
Year 6	11	(\$9,689)	(\$117,672)	0	\$0	1	(\$117,672)
Year 7	12	(\$9,689)	(\$130,937)	0	\$0	2	(\$130,937)
Year 8	13	(\$9,689)	(\$144,685)	0	\$0	3	(\$144,685)
Year 9	14	(\$9,689)	(\$158,931)	0	\$0	4	(\$158,931)
Year 10	15	(\$9,689)	(\$173,689)	0	\$0	4	(\$173,689)

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 \$26.545 per day or an annual cost of \$9,689 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 \$99.90 per day or an annual cost of \$36,464 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 assumes other provisions in statutes are relatively similar and could already be used to charge offenders; therefore, Oversight will reflect the fiscal impact as “less than” DOC’s estimated impact for fiscal note purposes.

Officials from the **Department of Public Safety - Missouri Highway Patrol**, the **Missouri Office of Prosecution Services**, 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.

Officials from the **Attorney General’s Office** and **Office of the State Courts Administrator** did not respond to **Oversight’s** request for fiscal impact for this proposal.

<u>FISCAL IMPACT</u> – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2034)
GENERAL REVENUE				
<u>Costs</u> – (\$579.020) Increased incarceration costs	<u>Less than</u> (\$16,148)	<u>Less than</u> (\$39,531)	<u>Less than</u> (\$60,483)	<u>Less than</u> (\$173,689)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Less than</u> (\$16,148)	<u>Less than</u> (\$39,531)	<u>Less than</u> (\$60,483)	<u>Less than</u> (\$173,689)

<u>FISCAL IMPACT</u> <u>- Local</u> <u>Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2034)
	<u>\$0</u>	<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

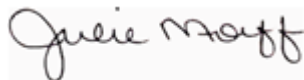
DELIVERY OF A CONTROLLED SUBSTANCE (Section 579.020)

This bill modifies the offense of delivery of a controlled substance to add that a person commits the offense if he or she knowingly distributes or delivers a schedule I or schedule II controlled substance and great bodily harm or death results from the use of the controlled substance. The offense is a class B felony if the delivery or distribution of a schedule I or schedule II controlled substance results in great bodily harm from the use of the controlled substance and a class A felony if a death results from such use. It is not a defense under these provisions that the user contributed to her or her own great bodily harm or death by using the controlled substance or consenting to the administration of the controlled substance by another.

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

Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Missouri Office of Prosecution Services
Office of the State Public Defender



Julie Morff
Director
February 21, 2024



Ross Strobe
Assistant Director
February 21, 2024