

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2681H.01I
Bill No.: HB 1333
Subject: Drugs and Controlled Substances; Crimes and Punishment
Type: Original
Date: March 16, 2021

Bill Summary: This proposal modifies provisions relating to offenses involving the production of a controlled substance.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
General Revenue	(\$19,390)	(\$47,467)	(\$72,624)	(\$125,930)
Total Estimated Net Effect on General Revenue	(\$19,390)	(\$47,467)	(\$72,624)	(\$125,930)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
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 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
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 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
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 2022	FY 2023	FY 2024	Fully Implemented (FY 2026)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§569.040 and 579.055 – Manufacture of a controlled substance

Officials from the **Department of Corrections (DOC)** state this proposal modifies provisions relating to offenses involving the production of a controlled substance.

Section 579.055 subsection 2 expands the class A felony offense for production of a controlled substance by adding any controlled substance with methamphetamine when someone has suffered serious physical injury or has died because of a fire or explosion started in an attempt by the defendant to produce. There is no change for other felony classes under this section, for manufacturing drugs, etc. In FY 2019 and FY 2020, there was no new admissions under section 579.055 for a class A felony offense. Although, the bill expands the jurisdiction of this offense by including any controlled substance, instead of methamphetamine only, the Department is unable to quantify the future impact of this change due to scarcity of sentencing data.

Section 569.040 expands the offense of Arson First Degree by including any controlled substance instead of methamphetamine only. The offense of Arson in the First Degree is a class B felony. It is a class A felony when a person has suffered serious physical injury or has died because of the fire or explosion set by the person or because of a fire or explosion started in an attempt by the person to produce any controlled substance.

In FY 2019, under section 569.040, there was only one new admission for Arson First Degree under class A felony offense, whereas there were nine new admission for class B felony offenses for Arson. Similarly, in FY 2020 under section 569.040, there was only two new admission for Arson First Degree under class A felony offense, whereas there were eleven new admission for class B felony offenses for Arson. Thus, expanding the offense to include any controlled substance essentially creates the impact of a new class B felony offense.

For each new class B felony, the Department estimates three people will be sentenced to prison and four to probation. The average sentence for a class B felony offense is 8.7 years, of which 5.1 years will be served in prison with 3.4 years to first release. The remaining 3.6 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the Department is estimated to be 15 additional offenders in prison and 12 additional offenders on field supervision by FY 2026.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
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	4	4	4	4	4	4	4	4	4	4
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	4	4	4	4	4	4	4	4	4	4
Cumulative Populations										
Prison	3	6	9	12	15	15	15	15	15	15
Parole						3	6	9	11	11
Probation	4	8	12	12	12	12	12	12	12	12
Impact										
Prison Population	3	6	9	12	15	15	15	15	15	15
Field Population	4	8	12	12	12	15	18	21	23	23
Population Change	7	14	21	24	27	30	33	36	38	38

	# to	Cost per	Total Costs for	# to	Cost per	Total cost	Grand Total -
	prison	year	prison	probation & parole	year	for probation and parole	Prison and Probation (includes 2% inflation)
Year 1	3	(\$7,756)	(\$19,390)	4	absorbed	\$0	(\$19,390)
Year 2	6	(\$7,756)	(\$47,467)	8	absorbed	\$0	(\$47,467)
Year 3	9	(\$7,756)	(\$72,624)	12	absorbed	\$0	(\$72,624)
Year 4	12	(\$7,756)	(\$98,769)	12	absorbed	\$0	(\$98,769)
Year 5	15	(\$7,756)	(\$125,930)	12	absorbed	\$0	(\$125,930)
Year 6	15	(\$7,756)	(\$128,449)	15	absorbed	\$0	(\$128,449)
Year 7	15	(\$7,756)	(\$131,018)	18	absorbed	\$0	(\$131,018)
Year 8	15	(\$7,756)	(\$133,638)	21	absorbed	\$0	(\$133,638)
Year 9	15	(\$7,756)	(\$136,311)	23	absorbed	\$0	(\$136,311)
Year 10	15	(\$7,756)	(\$139,037)	23	absorbed	\$0	(\$139,037)

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2019, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders 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. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 48 probation and parole districts.

The DOC cost of incarceration is \$21.251 per day or an annual cost of \$7,756 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

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

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** 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.

Oversight notes, according to reports from the Office of the State Courts Administrator, the following number of cases resulted in a guilty disposition in the last three years.

	FY 2020	FY 2019	FY 2018
Section 569.040 (Arson)	19	20	19
Section 579.055 (Controlled Substances)	36	76	54

<u>FISCAL</u> <u>IMPACT – State</u> <u>Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2026)
GENERAL REVENUE FUND				
Costs – DOC (§§569.040 and 579.055) Increased incarceration costs	<u>(\$19,390)</u>	<u>(\$47,467)</u>	<u>(\$72,624)</u>	<u>(\$125,930)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(\$19,390)</u>	<u>(\$47,467)</u>	<u>(\$72,624)</u>	<u>(\$125,930)</u>

<u>FISCAL</u> <u>IMPACT –</u> <u>Local</u> <u>Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024	Fully Implemented (FY 2026)
	<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

This bill modifies the offenses of first-degree arson and manufacture of a controlled substance.

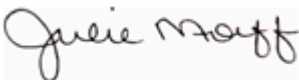
For first-degree arson, the bill adds "any controlled substance" to the provision on fire or explosion while attempting to produce methamphetamine. "Any controlled substance" exempts manufacture of medicinal marijuana or synthetic cannabinoids by licensed facilities under Missouri law (Section 569.040, RSMo).

For manufacture of a controlled substance, the bill adds "any controlled substance" to the provision on serious injury or death while attempting to produce methamphetamine. Manufacture of medicinal marijuana or synthetic cannabinoids by licensed facilities under Missouri law is exempt from this section (Section 579.055).

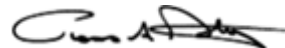
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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 16, 2021



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March 16, 2021