

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2498H.011  
 Bill No.: HB 1181  
 Subject: Crimes and Punishment; Criminal Procedure; Drugs and Controlled Substances  
 Type: Original  
 Date: March 5, 2023

Bill Summary: This proposal establishes the offenses of delivery of a controlled substance causing great bodily harm and delivery of a controlled substance causing death.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2033)
General Revenue	Less than (\$39,579)	Less than (\$96,890)	Less than (\$148,241)	Less than (\$283,805)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Less than (\$39,579)</b>	<b>Less than (\$96,890)</b>	<b>Less than (\$148,241)</b>	<b>Less than (\$283,805)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2033)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</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 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>Fully Implemented (FY 2033)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</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 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>Fully Implemented (FY 2033)</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</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 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>Fully Implemented (FY 2033)</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

**§§579.021 and 579.022 – Delivery of controlled substance**

Officials from the **Department of Corrections (DOC)** state this proposal establishes the offenses of delivery of controlled substance causing great bodily harm and delivery of a controlled substance causing death.

Section 579.021 is created to include penalty provisions for the offense of delivering a controlled substance causing great bodily harm.

These actions are considered a class C felony offense; therefore, the intent of the bill is to create a new class C felony offense.

For each new class C felony, the department estimates four people could be sentenced to prison and six to probation. The average sentence for a class C felony offense is 6.9 years, of which 3.7 years could be served in prison with 2.1 years to first release. The remaining 3.2 years could be on parole. Probation sentences could be 3 years.

The cumulative impact on the department is estimated to be 15 additional offenders in prison and 19 additional offenders on field supervision by FY 2027.

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

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
<b>Change (After Legislation - Current Law)</b>										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	6	6	6	6	6	6	6	6	6	6
<b>Cumulative Populations</b>										
Prison	4	8	12	15	15	15	15	15	15	15
Parole	0	0	0	1	5	9	13	13	13	13
Probation	6	12	18	18	18	18	18	18	18	18
<b>Impact</b>										
Prison Population	4	8	12	15	15	15	15	15	15	15
Field Population	6	12	18	19	23	27	31	31	31	31
<b>Population Change</b>	<b>10</b>	<b>20</b>	<b>30</b>	<b>34</b>	<b>38</b>	<b>42</b>	<b>46</b>	<b>46</b>	<b>46</b>	<b>46</b>

Section 579.022 is created to include penalty provisions for the offense of delivering a controlled substance causing death.

These actions are considered a class A felony offense; therefore, the intent of the bill is to create a new class A felony offense.

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 could be served in prison as a parole return, and the rest of the sentence could 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 2033 is 10 additional offenders in prison.

**Change in prison admissions and probation openings with legislation**

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
<b>Change (After Legislation - Current Law)</b>										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations										
<b>Cumulative Populations</b>										
Prison	1	2	3	4	5	6	7	8	9	10
Parole										
Probation										
<b>Impact</b>										
Prison Population	1	2	3	4	5	6	7	8	9	10
Field Population										
<b>Population Change</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>

**Combined Cumulative Impact**

DOC estimates this proposal could result in an additional 25 offenders in prison and an additional 31 on field supervision by FY 2033. The combined cumulative impact beyond 2033, due to the length of class A felony sentences, cannot be calculated in the timeframe of this response.

**Change in prison admissions and probation openings with legislation**

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
<b>Change (After Legislation - Current Law)</b>										
Admissions	5	5	5	5	5	5	5	5	5	5
Probations	6	6	6	6	6	6	6	6	6	6
<b>Cumulative Populations</b>										
Prison	5	10	15	19	20	21	22	23	24	25
Parole	0	0	0	1	5	9	13	13	13	13
Probation	6	12	18	18	18	18	18	18	18	18
<b>Impact</b>										
Prison Population	5	10	15	19	20	21	22	23	24	25
Field Population	6	12	18	19	23	27	31	31	31	31
<b>Population Change</b>	<b>11</b>	<b>22</b>	<b>33</b>	<b>38</b>	<b>43</b>	<b>48</b>	<b>53</b>	<b>54</b>	<b>55</b>	<b>56</b>

	# 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	5	(\$9,499)	(\$39,579)	0	\$0	6	(\$39,579)
Year 2	10	(\$9,499)	(\$96,890)	0	\$0	12	(\$96,890)
Year 3	15	(\$9,499)	(\$148,241)	0	\$0	18	(\$148,241)
Year 4	19	(\$9,499)	(\$191,528)	0	\$0	19	(\$191,528)
Year 5	20	(\$9,499)	(\$205,640)	0	\$0	23	(\$205,640)
Year 6	21	(\$9,499)	(\$220,241)	0	\$0	27	(\$220,241)
Year 7	22	(\$9,499)	(\$235,343)	0	\$0	31	(\$235,343)
Year 8	23	(\$9,499)	(\$250,961)	0	\$0	31	(\$250,961)
Year 9	24	(\$9,499)	(\$267,110)	0	\$0	31	(\$267,110)
Year 10	25	(\$9,499)	(\$283,805)	0	\$0	31	(\$283,805)

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 \$26.024 per day or an annual cost of \$9,499 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 \$87.46 per day or an annual cost of \$31,921 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 charged; therefore, Oversight will reflect the fiscal impact as "less than" DOC's estimated impact for fiscal note purposes.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The enactment of new crimes (579.021.3 and 579.022.3) creates additional responsibilities for county prosecutors and the circuit attorney which may, in turn, result in additional costs, which are difficult to determine.

Officials from the **Office of the State Public Defender (SPD)** state the proposed legislation creates new offenses under section 579.021 and 579.022 which could result in additional cases eligible for SPD representation. The number of additional cases is unknown and as a result, the fiscal impact is unknown.

**Oversight** notes in FY22 the SPD was appropriated moneys for 53 additional FTE. Oversight assumes this proposal will create a minimal number of new cases and that the SPD can absorb the additional caseload required by this proposal with current staff and resources. Therefore, Oversight will reflect no fiscal impact to the SPD for fiscal note purposes. However, if multiple bills pass which require additional staffing and duties, the SPD may request funding through the appropriation process.

Officials from the **Attorney General's Office** and the **Department of Public Safety - Missouri Highway Patrol** 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 **Office of the State Courts Administrator** did not respond to **Oversight's** request for fiscal impact for this proposal.

<u>FISCAL IMPACT</u> <u>– State</u> <u>Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2033)
<b>GENERAL REVENUE</b>				
Cost – DOC (\$579,021) Increased incarceration costs	<u>Less than</u> <u>(\$39,579)</u>	<u>Less than</u> <u>(\$96,890)</u>	<u>Less than</u> <u>(\$148,241)</u>	<u>Less than</u> <u>(\$283,805)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<u>Less than</u> <u>(\$39,579)</u>	<u>Less than</u> <u>(\$96,890)</u>	<u>Less than</u> <u>(\$148,241)</u>	<u>Less than</u> <u>(\$283,805)</u>

<u>FISCAL IMPACT</u> <u>– Local</u> <u>Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2033)
	<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 (Sections 579.021 and 579.022)**

This bill creates the offense of delivery of a controlled substance causing great bodily harm, which a person commits if he or she delivers or distributes a controlled substance and great bodily harm results from the use of the controlled substance. Such offense is a class C felony. The bill also creates the offense of delivery of a controlled substance causing a death, which a person commits if he or she delivers or distributes a controlled substance and a death results from the use of the controlled substance. Such offense is a class A felony.

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

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SOURCES OF INFORMATION

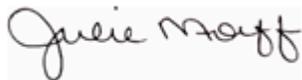
Attorney General's Office

Department of Corrections

Department of Public Safety - Missouri Highway Patrol

Missouri Office of Prosecution Services

Office of the State Public Defender



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