

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3039H.011  
 Bill No.: HB 1403  
 Subject: Crimes and Punishment; Drugs and Controlled Substances; Children and Minors  
 Type: Original  
 Date: December 27, 2023

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
General Revenue	Less than (\$8,074)	Less than (\$19,766)	Less than (\$30,241)	Less than (\$115,793)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Less than (\$8,074)</b>	<b>Less than (\$19,766)</b>	<b>Less than (\$30,241)</b>	<b>Less than (\$115,793)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
<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 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Fully Implemented (FY 2034)</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 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Fully Implemented (FY 2034)</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 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Fully Implemented (FY 2034)</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

**§579.020 – Delivery of controlled substances marketed to children**

Officials from the **Department of Corrections (DOC)** state this proposal modifies the offense of delivery of a controlled substance. Language is added to §579.020 that makes delivery of a controlled substance to minors in certain situations a class A felony.

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
<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>

	# to prison	Cost per year	Total Costs for <b>prison</b>	Change in probation & parole officers	Total cost for <b>probation and parole</b>	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	1	(\$9,689)	(\$8,074)	0	\$0	0	(\$8,074)
Year 2	2	(\$9,689)	(\$19,766)	0	\$0	0	(\$19,766)
Year 3	3	(\$9,689)	(\$30,241)	0	\$0	0	(\$30,241)
Year 4	4	(\$9,689)	(\$41,128)	0	\$0	0	(\$41,128)
Year 5	5	(\$9,689)	(\$52,438)	0	\$0	0	(\$52,438)
Year 6	6	(\$9,689)	(\$64,185)	0	\$0	0	(\$64,185)
Year 7	7	(\$9,689)	(\$76,380)	0	\$0	0	(\$76,380)
Year 8	8	(\$9,689)	(\$89,037)	0	\$0	0	(\$89,037)
Year 9	9	(\$9,689)	(\$102,170)	0	\$0	0	(\$102,170)
Year 10	10	(\$9,689)	(\$115,793)	0	\$0	0	(\$115,793)

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 charged; therefore, Oversight will reflect the fiscal impact as “less than” DOC’s estimated impact for fiscal note purposes.

Officials from the **Office of Attorney General (AGO)** assume any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation.

**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 **Office of the State Public Defender (SPD)** state per the recently released National Public Defense Workload Study, the new charge contemplated by this change to Section 579.020, creating a class A felony which could result in life imprisonment, would take approximately ninety-nine hours of SPD work for reasonably effective representation. If one hundred cases were filed under this section in a fiscal year, representation would result in a need for an additional four to five attorneys. Because the number of cases that will be filed under this statute is unknown, the exact additional number of attorneys necessary is unknown. Each case would also result in unknown increased costs in the need for core staff, travel and litigation expenses.

**Oversight** assumes this proposal will not create the number of new cases required to request additional FTE for the SPD 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 **Department of Public Safety - Missouri Highway Patrol**, the **Department of Social Services**, the **Missouri Office of Prosecution Services**, and the **Office of the State Courts Administrator** 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</u> <u>– State</u> <u>Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2034)
<b>GENERAL REVENUE</b>				
<u>Cost – DOC</u> (\$579,020) Increased incarceration costs	<u>Less than</u> <u>(\$8,074)</u>	<u>Less than</u> <u>(\$19,766)</u>	<u>Less than</u> <u>(\$30,241)</u>	<u>Less than</u> <u>(\$115,793)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>Less than</u></b> <b><u>(\$8,074)</u></b>	<b><u>Less than</u></b> <b><u>(\$19,766)</u></b>	<b><u>Less than</u></b> <b><u>(\$30,241)</u></b>	<b><u>Less than</u></b> <b><u>(\$115,793)</u></b>

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

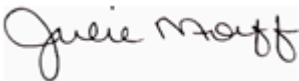
FISCAL DESCRIPTION

This bill specifies that the offense of delivery of a controlled substance is a class A felony if the controlled substance being delivered or distributed is marketed to minors and is combined with a beverage or candy product, is marketed or packaged to appear similar to a beverage or candy product, or is modified by flavor or coloring.

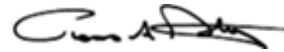
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office  
Department of Corrections  
Department of Public Safety - Missouri Highway Patrol  
Department of Social Services  
Missouri Office of Prosecution Services  
Office of the State Courts Administrator  
Office of the State Public Defender



Julie Morff  
Director  
December 27, 2023



Ross Strobe  
Assistant Director  
December 27, 2023