

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3640H.011  
 Bill No.: HB 1433  
 Subject: Crimes and Punishment; Criminal Procedure; Drugs and Controlled Substances  
 Type: Original  
 Date: January 22, 2024

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

**FISCAL SUMMARY**

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

\*Oversight assumes the fiscal impact could exceed \$250,000. Oversight notes there were 97 new prison admissions for 1<sup>st</sup> and 2<sup>nd</sup> 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.

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

## FISCAL ANALYSIS

### ASSUMPTION

#### §§579.065 and 579.068 – Trafficking drugs

Officials from the **Department of Corrections (DOC)** state this proposal modifies the offenses of trafficking of drugs in the first and second degree.

This bill intends to modify sections 579.065 and 579.068 to make more people in possession of and distributing fentanyl or carfentanil eligible for sentencing as drug traffickers.

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

**Section 579.068** - In FY 2023, there were 79 new prison admissions and 90 new probation cases for 2<sup>nd</sup> 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) of 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. 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.

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. However, the AGO may seek additional appropriations if there is 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
<b>GENERAL REVENUE</b>			
<u>Cost – DOC (§§579.065 and 579.068)</u> Changes to Trafficking drugs felony charges relating to fentanyl	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

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

**DRUG TRAFFICKING (Sections 579.065 and 579.068)**

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;

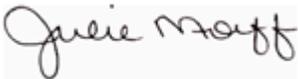
(3) Drug trafficking in the second degree is a class C felony for more than three but less than 14 milligrams of fentanyl;

(4) Drug trafficking in the second degree is a class B felony for more than 14 milligrams of fentanyl.

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



Julie Morff  
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January 22, 2024