

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4349H.011
 Bill No.: HB 1544
 Subject: Crimes and Punishment; Criminal Procedure; Drugs and Controlled Substances
 Type: Original
 Date: January 8, 2024

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

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2034)
General Revenue	Less than (\$40,371)	Less than (\$98,828)	Less than (\$151,207)	Less than (\$289,481)
Total Estimated Net Effect on General Revenue	Less than (\$40,371)	Less than (\$98,828)	Less than (\$151,207)	Less than (\$289,481)

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

§§579.021 and 579.022 – Delivery of controlled substance

Officials from the **Department of Corrections (DOC)** state this proposal establishes the offenses of delivery of a 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.

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.

For each new class C felony, the department estimates four people will 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 will be served in prison with 2.1 years to first release. The remaining 3.2 years will be on parole. Probation sentences will be 3 years.

Change in prison admissions and probation openings with legislation-Class C 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	4	4	4	4	4	4	4	4	4	4
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
Prison	4	8	12	15	15	15	15	15	15	15
Parole				1	5	9	13	13	13	13
Probation	6	12	18	18	18	18	18	18	18	18
Impact										
Prison Population	4	8	12	15	15	15	15	15	15	15
Field Population	6	12	18	19	23	27	31	31	31	31
Population Change	10	20	30	34	38	42	46	46	46	46

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 25 additional offenders in prison and 31 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	5	5	5	5	5	5	5	5	5	5
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	6	6	6	6	6	6	6	6	6	6
Change (After Legislation - Current Law)										
Admissions	5	5	5	5	5	5	5	5	5	5
Probations	6	6	6	6	6	6	6	6	6	6
Cumulative Populations										
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
Impact										
Prison Population	5	10	15	19	20	21	22	23	24	25
Field Population	6	12	18	19	23	27	31	31	31	31
Population Change	11	22	33	38	43	48	53	54	55	56

	# 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	(\$9,689)	(\$40,371)	0	\$0	6	(\$40,371)
Year 2	10	(\$9,689)	(\$98,828)	0	\$0	12	(\$98,828)
Year 3	15	(\$9,689)	(\$151,207)	0	\$0	18	(\$151,207)
Year 4	19	(\$9,689)	(\$195,359)	0	\$0	19	(\$195,359)
Year 5	20	(\$9,689)	(\$209,754)	0	\$0	23	(\$209,754)
Year 6	21	(\$9,689)	(\$224,646)	0	\$0	27	(\$224,646)
Year 7	22	(\$9,689)	(\$240,051)	0	\$0	31	(\$240,051)
Year 8	23	(\$9,689)	(\$255,981)	0	\$0	31	(\$255,981)
Year 9	24	(\$9,689)	(\$272,453)	0	\$0	31	(\$272,453)
Year 10	25	(\$9,689)	(\$289,481)	0	\$0	31	(\$289,481)

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 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</u> – State Government	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2034)
GENERAL REVENUE				
Cost – (§§579.021 and 579.022) Increased incarceration costs	<u>Less than</u> <u>(\$40,371)</u>	<u>Less than</u> <u>(\$98,828)</u>	<u>Less than</u> <u>(\$151,207)</u>	<u>Less than</u> <u>(\$289,481)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Less than</u> <u>(\$40,371)</u>	<u>Less than</u> <u>(\$98,828)</u>	<u>Less than</u> <u>(\$151,207)</u>	<u>Less than</u> <u>(\$289,481)</u>

<u>FISCAL IMPACT</u> – Local Government	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.

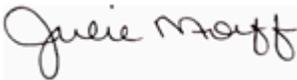
FISCAL DESCRIPTION

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.

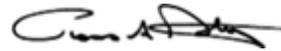
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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
Director
January 8, 2024



Ross Strobe
Assistant Director
January 8, 2024