

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 6157H.02C  
 Bill No.: HCS for HB 2828  
 Subject: Crimes and Punishment; Criminal Procedure; Drugs and Controlled Substances  
 Type: Original  
 Date: March 19, 2026

Bill Summary: This proposal adds certain psychoactive substances to the list of Schedule I controlled substances and modifies the offenses of possession of a controlled substance and delivery of a controlled substance.

**FISCAL SUMMARY**

**ESTIMATED NET EFFECT ON GENERAL REVENUE FUND**

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue*	(\$46,346 to Unknown)	(\$113,455 to Unknown)	(\$138,868 to Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$46,346 to Unknown)</b>	<b>(\$113,455 to Unknown)</b>	<b>(\$138,868 to Unknown)</b>

\*DOC notes that current capacity will be met by July 2029 (FY 2030) or potentially much sooner. Therefore, Oversight has made the decision to reflect the marginal cost of incarceration up to an unknown cost if DOC needs to add staff and/or rehabilitate, expand or construct additional capacity. Oversight assumes the unknown cost has the potential to exceed \$250,000.

**ESTIMATED NET EFFECT ON OTHER STATE FUNDS**

FUND AFFECTED	FY 2027	FY 2028	FY 2029
<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.

**ESTIMATED NET EFFECT ON FEDERAL FUNDS**

FUND AFFECTED	FY 2027	FY 2028	FY 2029
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)**

FUND AFFECTED	FY 2027	FY 2028	FY 2029
<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.

**ESTIMATED NET EFFECT ON LOCAL FUNDS**

FUND AFFECTED	FY 2027	FY 2028	FY 2029
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Missouri Office of Prosecution Services** did not respond to **Oversight's** request for fiscal impact for this proposal.

#### §195.017 - Adds Certain Psychoactive Substances to List of Schedule I Controlled Substances

In response to a previous version, HB 2828 (2026), officials from the **Office of the State Public Defender (SPD)** stated the number of new charges generated each year by the change to section 195.017 is unknown. However, each additional charge would result in significant SPD work, at a minimum of 22 hours per case. Because the number of cases that will be filed where the charge is based on possession or distribution of these substances, 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 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.

#### §579.015 - Offense of Possession of a Controlled Substance to Include Psychoactive Substances

Officials from the **Department of Corrections (DOC)** state section 579.015 expands the offense of possession of a controlled substance to include psychoactive substances. It creates the offense of possession of a psychoactive substance; it is a class A misdemeanor for the first offense and a class E felony for subsequent offenses.

As misdemeanors fall outside the purview of DOC, there is no impact to DOC for the offense resulting in the class A misdemeanor. The offense resulting in a class E felony would be considered a new crime. As there is little direct data on which to base an estimate, the department estimates an impact comparable to the creation of a new class E felony.

For each new nonviolent class E felony, the department estimates one person could be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, with 1.4 until first release. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2029.

§579.020 - Offense of Delivery of a Controlled Substance to Include Psychoactive Substances

Officials from the **Department of Corrections (DOC)** state section 579.020 expands the offense of delivery of a controlled substance to include psychoactive substances. It creates a class E felony for delivery of thirty-five grams or less of marijuana or synthetic cannabinoid or a psychoactive substance and it also creates a D Felony offense for delivery of a psychoactive substance to a person under eighteen years of age.

As these are new crimes, there is little direct data on which to base an estimate, and as such, the department estimates an impact comparable to the creation of a new class E felony and D Felony.

For each new nonviolent class E felony, the department estimates one person could be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, with 1.4 years until first release. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2029.

For each new nonviolent class D felony, the department estimates three people will be sentenced to prison and five to probation. The average sentence for a nonviolent class D felony offense is 5 years with 1.7 years until first release. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 8 additional offenders in prison and 16 additional offenders on field supervision by FY 2029.

Responses Regarding the Proposed Legislation as a Whole

Officials from the **Department of Corrections (DOC)** state The cumulative impact on the department is estimated to be 12 additional offenders in prison and 30 additional offenders on field supervision by FY 2029.

	# 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	5	(\$11,123)	(\$46,346)	0	\$0	9	(\$46,346)
Year 2	10	(\$11,123)	(\$113,455)	0	\$0	18	(\$113,455)
Year 3	12	(\$11,123)	(\$138,868)	0	\$0	30	(\$138,868)
Year 4	12	(\$11,123)	(\$141,646)	0	\$0	33	(\$141,646)
Year 5	12	(\$11,123)	(\$144,479)	0	\$0	36	(\$144,479)
Year 6	12	(\$11,123)	(\$147,368)	0	\$0	36	(\$147,368)
Year 7	12	(\$11,123)	(\$150,316)	0	\$0	36	(\$150,316)
Year 8	12	(\$11,123)	(\$153,322)	0	\$0	36	(\$153,322)
Year 9	12	(\$11,123)	(\$156,388)	0	\$0	36	(\$156,388)
Year 10	12	(\$11,123)	(\$159,516)	0	\$0	36	(\$159,516)

The department will assume a marginal cost (multiplied by number of offenders) for any projected increase or decrease in the incarcerated population. Marginal cost is \$30.47 per day or an annual cost of \$11,123 per offender which includes costs such as medical, food, wages and operational E&E. The unknown amount is a result of the uncertainty in the growth of the underlying offender population. The impact of any new legislation combined with the growth of the underlying population could result in the tiered approach below in order to meet the population demands.

1. Fully staffing DOC's current capacity (27,368) which is habitable, but DOC does not have the staffing resources for all bed space.
2. Rehabilitating current space that is not currently habitable and obtaining staffing resources for that space (requires capital improvements).
3. Expanding new capacity by adding housing units or wings to existing prisons and obtaining staffing resources for that space (requires capital improvements).
4. Constructing a new prison and obtaining staffing resources. Based on current construction projects in other Midwest states, the department estimates the cost of constructing a new 1,500-bed maximum security prison at approximately \$825 million to \$900 million plus annual operating costs of approximately \$50 million (requires capital improvements).

The department's population projections indicate current physical capacity will be met by July 2029; however recent trends indicate that capacity could be met much sooner. Should new construction be the result of the increasing offender population, the full cost per day per offender would be used, which is \$106.96 or an annual cost of \$39,040. This includes all items in the marginal cost calculation plus fringe, personal service, utilities, etc.

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.

\* 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.

**Oversight** does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the DOC.

Officials from the **Department of Social Services (DSS)** state any creation of a crime or modification of offense provisions in this legislation would potentially increase the number of youths committed to the Division of Youth Services. It is difficult to predict whether that number will be minimal or substantial and what fiscal impact may occur. Juvenile Office and judicial discretion would play into each individual youth's case, making the impact more difficult to calculate. Historically, when a new crime is enacted, DYS sees an increase in commitments, as referrals to Juvenile Offices increase.

**Oversight** assumes DSS could absorb any increase with current staff and funding levels. However, if additional duties require increased staffing, the DSS may request additional funding through the appropriations process.

Officials from the **Department of Commerce and Insurance, Department of Health and Senior Services, Department of Mental Health, Department of Public Safety - Missouri Highway Patrol, Office of the State Courts Administrator, Phelps County Sheriff's Department, Branson Police Department, Kansas City Police Department and St. Louis County Police Department** 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** only reflects the responses that we have received from state agencies and political subdivisions; however, other local law enforcement agencies were requested to respond to this proposed legislation but did not. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
<b>GENERAL REVENUE</b>			
<u>Cost – DOC (§§579.015 &amp; 579.020)</u> Increased incarceration costs p.4-6	(\$46,346 to <u>Unknown</u> )	(\$113,455 to <u>Unknown</u> )	(\$138,868 to <u>Unknown</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b>(\$46,346 to <u>Unknown</u>)</b>	<b>(\$113,455 to <u>Unknown</u>)</b>	<b>(\$138,868 to <u>Unknown</u>)</b>

<u>FISCAL IMPACT – Local Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT – Small Business

No direct fiscal impact on small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Adds certain psychoactive substances to the list of Schedule I controlled substances and modifies the offenses of possession of a controlled substance and delivery of a controlled substance.


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

- Department of Commerce and Insurance
- Department of Health and Senior Services
- Department of Mental Health
- Department of Corrections
- Department of Public Safety - Missouri Highway Patrol
- Department of Social Services
- Office of the State Courts Administrator
- Office of the State Public Defender
- Phelps County Sheriff’s Department
- Branson Police Department
- Kansas City Police Department

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St. Louis County Police Department



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March 19, 2026



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