

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1131S.01I
Bill No.: SB 156
Subject: Drugs and Controlled Substances; Crimes and Punishment
Type: Original
Date: January 25, 2023

Bill Summary: This proposal modifies provisions relating to the inhalation of substances.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	\$0 to (\$23,748)	\$0 to (\$58,134)	\$0 to (\$79,062)
Total Estimated Net Effect on General Revenue	\$0 to (\$23,748)	\$0 to (\$58,134)	\$0 to (\$79,062)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	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 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§579.097 and 579.101 – Inhalation of substances

Officials from the **Department of Corrections (DOC)** state section 579.097 provides additional substances to be added to the list of substances individuals are prohibited from smelling and inhaling. Changes are also made to section 579.101, which prohibits the possession and/or purchasing of the same substances. Violation penalties are also changed. A first violation of these sections is changed from a class B misdemeanor to a class D misdemeanor. A second violation is a class A misdemeanor instead of a class E felony. A third violation of these sections is now a class D felony.

Misdemeanors fall outside the purview of the DOC; therefore, the DOC will only estimate the impact of the proposed penalty changes for a second violation (removal of class E felony) and any subsequent violation (new class D felony).

In FY 2022, no individuals were sentenced with a class E felony in violation of section 579.097 or 579.101. For this reason, the department estimates no impact on the prison or field population related to the second violation penalty change.

For each new nonviolent class D felony, the department estimates three people could be sentenced to prison and five to probation. The average sentence for a nonviolent class D felony offense is 5 years, of which 2.8 years will be served in prison with 1.7 years to first release. The remaining 2.2 years will be on parole. 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 2026.

Change in prison admissions and probation openings with legislation-Class D Felony (nonviolent)

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
Change (After Legislation - Current Law)										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	5	5	5	5	5	5	5	5	5	5
Cumulative Populations										
Prison	3	6	8	8	8	8	8	8	8	8
Parole			1	4	7	7	7	7	7	7
Probation	5	10	15	15	15	15	15	15	15	15
Impact										
Prison Population	3	6	8	8	8	8	8	8	8	8
Field Population	5	10	16	19	22	22	22	22	22	22
Population Change	8	16	24	27	30	30	30	30	30	30

	# 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	3	(\$9,499)	(\$23,748)	0	\$0	5	(\$23,748)
Year 2	6	(\$9,499)	(\$58,134)	0	\$0	10	(\$58,134)
Year 3	8	(\$9,499)	(\$79,062)	0	\$0	16	(\$79,062)
Year 4	8	(\$9,499)	(\$80,643)	0	\$0	19	(\$80,643)
Year 5	8	(\$9,499)	(\$82,256)	0	\$0	22	(\$82,256)
Year 6	8	(\$9,499)	(\$83,901)	0	\$0	22	(\$83,901)
Year 7	8	(\$9,499)	(\$85,579)	0	\$0	22	(\$85,579)
Year 8	8	(\$9,499)	(\$87,291)	0	\$0	22	(\$87,291)
Year 9	8	(\$9,499)	(\$89,037)	0	\$0	22	(\$89,037)
Year 10	8	(\$9,499)	(\$90,817)	0	\$0	22	(\$90,817)

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.

Due to the historic infrequency of convictions for this offense, **Oversight** will reflect DOC’s impact as \$0 (no additional offenses committed) to the estimate provided by DOC to the General Revenue Fund.

Officials from the **Department of Public Safety - Missouri Highway Patrol**, the **Office of the State Courts Administrator**, and the **Office of the State Public Defender** assume the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation from 2022 (HB 1880), officials from the **Attorney General’s Office** and **Missouri Office of Prosecution Services** assumed 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 the abovementioned organizations.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Cost – DOC (\$579.101) Increased incarceration costs p. 3-5</u>	<u>\$0 to (\$23,748)</u>	<u>\$0 to (\$58,134)</u>	<u>\$0 to (\$79,062)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$0 to (\$23,748)</u>	<u>\$0 to (\$58,134)</u>	<u>\$0 to (\$79,062)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<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

Under current law, no person shall intentionally inhale, possess, or buy certain substances as provided in law. This act adds other chemical substances, including, but not limited to, difluoroethane, trifluoroethane, and tetrafluoroethane.

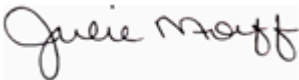
Additionally, this act changes the penalties for such offense from a class B misdemeanor to a class D misdemeanor for the first violation and participation in a drug treatment program; from a

class E felony to an class A misdemeanor for a second violation; and a class D felony for any subsequent violations.

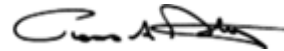
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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 25, 2023



Ross Strobe
Assistant Director
January 25, 2023