

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0865S.01I  
Bill No.: SB 354  
Subject: Drugs and Controlled Substances; Crimes and Punishment  
Type: Original  
Date: April 7, 2025

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue	(\$26,212)	(\$64,168)	(\$87,269)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$26,212)</b>	<b>(\$64,168)</b>	<b>(\$87,269)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Various State	Less than \$250,000	Less than \$250,000	Less than \$250,000
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Less than \$250,000</b>	<b>Less than \$250,000</b>	<b>Less than \$250,000</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</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 2026</b>	<b>FY 2027</b>	<b>FY 2028</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 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
<b>Local Government</b>	<b>Less than \$250,000</b>	<b>Less than \$250,000</b>	<b>Less than \$250,000</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

#### **§§579.097 and 579.101 – Modifies provisions relating to the inhalation of substances**

Officials from the **Department of Corrections (DOC)** state §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 §579.101, which prohibits the possession and/or purchasing of the same substances. Violation penalties are also changed: A first violation is now a class D misdemeanor (formerly, class B misdemeanor); a second violation is a class A misdemeanor (formerly, class E felony); and subsequent violations are a class D felony.

As misdemeanors fall outside the purview of DOC, there is no expected impact to the DOC for the offenses resulting in class D misdemeanor.

In FY 2024, no individuals were received by the DOC on a sentence with a class E felony in violation of §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 to a class A misdemeanor.

The offense resulting in a class D felony would be considered a new crime. As there is little direct data on which to base an estimate, the DOC estimates an impact comparable to the creation of a new nonviolent class D felony.

For each new nonviolent class D felony, the DOC 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 22 additional offenders on field supervision by FY 2030.

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

	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034	FY2035
<b>New Admissions</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	3	3	3	3	3	3	3	3	3	3
<b>Probation</b>										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
<b>Change (After Legislation - Current Law)</b>										
Admissions	3	3	3	3	3	3	3	3	3	3
Probations	5	5	5	5	5	5	5	5	5	5
<b>Cumulative Populations</b>										
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
<b>Impact</b>										
Prison Population	3	6	8	8	8	8	8	8	8	8
Field Population	5	10	16	19	22	22	22	22	22	22
<b>Population Change</b>	<b>8</b>	<b>16</b>	<b>24</b>	<b>27</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>

\* 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 \$28.73 per day or an annual cost of \$10,485 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 \$100.25 per day or an annual cost of \$36,591 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** has no information to the contrary. Therefore, Oversight will present the fiscal impact of this proposal as provided by DOC.

	# 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	3	(\$10,485)	(\$26,212)	0	\$0	5	(\$26,212)
Year 2	6	(\$10,485)	(\$64,168)	0	\$0	10	(\$64,168)
Year 3	8	(\$10,485)	(\$87,269)	0	\$0	16	(\$87,269)
Year 4	8	(\$10,485)	(\$89,014)	0	\$0	19	(\$89,014)
Year 5	8	(\$10,485)	(\$90,794)	0	\$0	22	(\$90,794)
Year 6	8	(\$10,485)	(\$92,610)	0	\$0	22	(\$92,610)
Year 7	8	(\$10,485)	(\$94,462)	0	\$0	22	(\$94,462)
Year 8	8	(\$10,485)	(\$96,352)	0	\$0	22	(\$96,352)
Year 9	8	(\$10,485)	(\$98,279)	0	\$0	22	(\$98,279)
Year 10	8	(\$10,485)	(\$100,244)	0	\$0	22	(\$100,244)

Officials from the **Office of the State Public Defender (SPD)** state per the National Public Defense Workload Study, the new charge contemplated by this change to §571.068 would take approximately twenty-two 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 attorney. 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. However, when the charge is classified as a class D misdemeanor no jail time would be authorized and the cases would not qualify for SPD representation.

**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 **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation costs.

Officials from the **Department of Public Safety - Missouri Highway Patrol** and the **Missouri Office of Prosecution Services** 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** notes the provisions of §579.101.2 provide that a person who knowingly violates the provisions of this proposal is guilty of a class D misdemeanor, and if allowed by law, is punishable by participation in a drug treatment program for the first violation, a Class A misdemeanor for a second violation, followed by a class D felony for subsequent violations.

Class D misdemeanors are punishable by a fine not to exceed \$500 and Class A misdemeanors carry a penalty of \$2,000 for each offense. These fines are in addition to any individual county/municipal fees and court costs. The fine revenue for the offense goes to local school funds and court costs go to various state and local funds. Oversight assumes there will be some (less than \$250,000) amount of fine revenue from violations of the statute. Therefore, the impact to various state funds and local governments will be presented as less than \$250,000. For simplicity, Oversight will not reflect the possibility that fine revenue paid to school districts may act as a subtraction in the foundation formula.

Below are examples of some of the state and local funds which court costs are distributed:

<b>Fee/Fund Name</b>	<b>Fee Amount</b>
Basic Civil Legal Services Fund	\$8.00
Clerk Fee	\$15.00 (\$12 State/\$3 County)
County Fee	\$25.00
State Court Automation Fund	\$7.00
Crime Victims' Compensation Fund	\$7.50
DNA Profiling Analysis Fund	\$15.00
Peace Officer Standards and Training (POST) Fund	\$1.00
Motorcycle Safety Trust Fund	\$1.00
Brain Injury Fund	\$2.00
Independent Living Center Fund	\$1.00
Sheriff's Fee	\$10.00 (County)
Prosecuting Attorney and Circuit Attorney Training Fund	\$4.00
Prosecuting Attorney Training Fund	\$1.00 (\$0.50 State/\$0.50 County)
Spinal Cord Injury Fund	\$2.00

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
<b>GENERAL REVENUE FUND</b>			
<u>Costs</u> – DOC – increase in probation and parole expenditures (§§579.097 and 579.101) p.5	(\$26,212)	(\$64,168)	(\$87,269)
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(\$26,212)</u></b>	<b><u>(\$64,168)</u></b>	<b><u>(\$87,269)</u></b>
<b>VARIOUS STATE FUNDS</b>			
<u>Revenue</u> – (§579.101.2) Court costs p. 6	Less than \$250,000	Less than \$250,000	Less than \$250,000
<b>ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS</b>	<b><u>Less than \$250,000</u></b>	<b><u>Less than \$250,000</u></b>	<b><u>Less than \$250,000</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Revenue</u> – (§579.101.2) Court costs p. 6	Less than \$250,000	Less than \$250,000	Less than \$250,000
<u>Revenue</u> – Schools (§579.101.2) Fine revenue p. 6	Less than \$250,000	Less than \$250,000	Less than \$250,000
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>Less than \$250,000</u></b>	<b><u>Less than \$250,000</u></b>	<b><u>Less than \$250,000</u></b>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

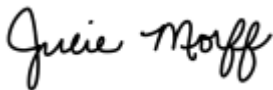
Under current law, no person shall intentionally inhale, possess, or buy certain substances as provided in law. This act adds other chemical substances, including, but not limited to, difluoroethane, trifluoroethane, and tetrafluoroethane. (§579.097)

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 a class A misdemeanor for a second violation; and a class D felony for any subsequent violations. (§579.101)

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  
Office of the State Public Defender  
Missouri Office of Prosecution Services  
Office of the State Courts Administrator



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