

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5763S.01I
 Bill No.: SB 1392
 Subject: Crimes and Punishment; Drugs and Controlled Substances
 Type: Original
 Date: February 10, 2026

Bill Summary: This proposal modifies the offense of murder in the first degree.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029	Fully Implemented (FY 2036)
General Revenue*	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$34,717 to Unknown)	(\$132,930 to Unknown)
Total Estimated Net Effect on General Revenue	(\$9,269 to Unknown)	(\$22,691 to Unknown)	(\$34,717 to Unknown)	(\$132,930 to Unknown)

*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	Fully Implemented (FY 2036)
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 2027	FY 2028	FY 2029	Fully Implemented (FY 2036)
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 2027	FY 2028	FY 2029	Fully Implemented (FY 2036)
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 2027	FY 2028	FY 2029	Fully Implemented (FY 2036)
Local Government*	(Unknown)	(Unknown)	(Unknown)	(Unknown)

*Cost for death penalty cases for county prosecutors and/or the circuit attorney.

FISCAL ANALYSIS

ASSUMPTION

§565.020 – Murder in the First Degree

Officials from the **Department of Corrections (DOC)** state this proposal modifies the offense of murder in the first degree. Section 565.020 expands the offense of murder 1st degree to include knowingly delivering or distributing fentanyl or carfentanil, and death results. The penalty is a class A felony.

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 A felony.

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 2036 is 10 additional offenders in prison.

	# 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	1	(\$11,123)	(\$9,269)	0	\$0	0	(\$9,269)
Year 2	2	(\$11,123)	(\$22,691)	0	\$0	0	(\$22,691)
Year 3	3	(\$11,123)	(\$34,717)	0	\$0	0	(\$34,717)
Year 4	4	(\$11,123)	(\$47,215)	0	\$0	0	(\$47,215)
Year 5	5	(\$11,123)	(\$60,199)	0	\$0	0	(\$60,199)
Year 6	6	(\$11,123)	(\$73,684)	0	\$0	0	(\$73,684)
Year 7	7	(\$11,123)	(\$87,684)	0	\$0	0	(\$87,684)
Year 8	8	(\$11,123)	(\$102,215)	0	\$0	0	(\$102,215)
Year 9	9	(\$11,123)	(\$117,291)	0	\$0	0	(\$117,291)
Year 10	10	(\$11,123)	(\$132,930)	0	\$0	0	(\$132,930)

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 the 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 any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

Officials from the **Office of the State Public Defender (SPD)** state the change to section 565.020, that makes knowingly delivering or distributing fentanyl or carfentanil, or any derivative or combination thereof, and death results from the use of such substances punishable by death could potentially result in significantly more death eligible cases for the State Public Defender. An increase would require further investment in the number of FTE who handle death penalty cases. Currently, SPD has 32 FTE (all staff, not just attorneys) assigned to death penalty cases. Death penalty standards require an attorney handle no more than three such cases per year and that each case have two attorneys, so it is likely additional FTE will be necessary, but the number is unknown at this time.

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.

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.

In response to similar legislation, SB 531 (2025), officials from the **Missouri Office of Prosecution Services (MOPS)** assumed the proposal will have no measurable fiscal impact on MOPS. The addition of the possible penalty of death for the offense of knowingly delivering or distributing fentanyl or carfentanil, or any derivative or combination thereof, and death results from the use of such substances will have a negative fiscal impact on county prosecutors and the circuit attorney although the cost is difficult to determine. The increased costs will arise from the very nature of the complexity of death penalty cases, including need for expert witnesses.

Officials from the **Department of Public Safety - Missouri Highway Patrol** assume the proposal will have no fiscal impact on their organization.

In response to similar legislation, SB 531 (2025), officials from the **Office of the State Courts Administrator** assumed the proposal will have no fiscal impact on their organization.

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 2027 (10 Mo.)	FY 2028	FY 2029	Fully Implemented (FY 2036)
GENERAL REVENUE				
<u>Cost</u> – DOC (\$565.020) Increased incarceration costs p.3-4	(\$9,269 to <u>Unknown</u>)	(\$22,691 to <u>Unknown</u>)	(\$34,717 to <u>Unknown</u>)	(\$132,930 to <u>Unknown</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE	(\$9,269 to <u>Unknown</u>)	(\$22,691 to <u>Unknown</u>)	(\$34,717 to <u>Unknown</u>)	(\$132,930 to <u>Unknown</u>)

<u>FISCAL IMPACT</u> – Local Government	FY 2027 (10 Mo.)	FY 2028	FY 2029	Fully Implemented (FY 2036)
LOCAL POLITICAL SUBDIVISIONS				
<u>Cost</u> – County prosecutors and circuit attorney (\$565.020) Death penalty cases p.5	(<u>Unknown</u>)	(<u>Unknown</u>)	(<u>Unknown</u>)	(<u>Unknown</u>)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	(<u>Unknown</u>)	(<u>Unknown</u>)	(<u>Unknown</u>)	(<u>Unknown</u>)

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

MURDER IN THE FIRST DEGREE (Section 565.020)

This act provides that a person commits the offense of murder in the first degree if he or she knowingly delivers or distributes fentanyl or carfentanil and death results from the use of such substances. This offense is a class A felony, and if the person is over the age of 18, the punishment shall be either death or imprisonment for life without eligibility for probation or parole.

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



Julie Morff
Director
February 10, 2026



Jessica Harris
Assistant Director
February 10, 2026