

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6874S.01I
 Bill No.: SB 1605
 Subject: Crimes and Punishment; Drugs and Controlled Substances
 Type: Original
 Date: February 16, 2026

Bill Summary: This proposal makes 7-Hydroxymitragynine in certain amounts a Schedule I controlled substance.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue*	(Unknown, more than \$250,000)	(Unknown, more than \$250,000)	(Unknown, more than \$250,000)
Total Estimated Net Effect on General Revenue	(Unknown, more than \$250,000)	(Unknown, more than \$250,000)	(Unknown, more than \$250,000)

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

FUND AFFECTED	FY 2027	FY 2028	FY 2029
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 2027	FY 2028	FY 2029
Local Government	\$0	\$0	\$0

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 7-Hydroxymitragynine as a Schedule I Controlled Substance

Officials from the **Department of Corrections (DOC)** state this proposal 7-Hydroxymitragynine in certain amounts to the list of Schedule I controlled substances.

Section 195.017 is expanded to include 7-Hydroxmitragynine (methyl (E)-2-[(2S,3S,7aS,12bS)-3-ethyl-7a-hydroxy-8-methoxy-2,3,4,6,7,12b-hexahydro-1H-indolo [2,3-a]quinolizin-2-yl]-3-methoxyprop-2-enoate) concentrated at a level above four hundred parts per million on a dry-weight basis to the list of Schedule I controlled substances.

This addition to the Schedule 1 list of prohibited substances of 7-Oh creates the possibility that individuals could be charged with several controlled substance-related offenses, including the below:

Possession of any controlled substance except thirty-five grams or less of marijuana or any synthetic cannabinoid is a class D felony (§579.015). There were 1,013 new court commitments to prison and 5,596 new probation cases in FY 2025.

Delivery of a controlled substance except thirty-five grams or less of marijuana or synthetic cannabinoid is a class C felony. Delivery of a controlled substance to a person less than seventeen years of age who is at least two years younger than the defendant is a class B felony. Delivery of a controlled substance when the person knowingly permits a minor to purchase or transport illegally obtained controlled substances is a class B felony (§579.020). There was one class B new court commitment to prison and five new probation cases in FY 2025. There were 153 class C felony new court commitments to prison and 414 probation cases in FY 2025.

Delivery of a controlled substance when it causes serious physical injury is a class C felony (§579.021). There were no cases under this section in FY 2025.

Delivery of a controlled substance when it results in death is a class A felony (§579.022). There were no cases under this section in FY 2025.

Distribution of a controlled substance in a protected location is a class A felony (§579.030). There were 4 new court commitments to prison and 7 new probation cases in FY2025.

Unlawful delivery of a controlled substance by manufacturer or distributor is a class E felony (§579.086). There were no cases under this section in FY2025.

Prior and persistent drug offenders, who shall be sentenced to one to two felony classes higher than the offense for which they are found guilty (§579.170). There were 143 individuals in FY 2025 who received the Prior or Persistent Drug sentence indicator.

Driving while intoxicated (the statutory definition of intoxicated being “when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof”) is a class B misdemeanor. If the defendant is a prior offender or there is a person under seventeen present in the vehicle, it is a class A misdemeanor. If the defendant is a persistent offender or they cause physical injury to another person, it is a class E felony. If the defendant is an aggravated offender or they cause physical injury to a law enforcement officer or emergency personnel or serious physical injury to another person, it is a class D felony. If the defendant is a chronic offender or they cause serious physical injury to a law enforcement officer or emergency personnel or the death of another person, it is a class C felony. If the defendant is a habitual offender or they cause the death of a law enforcement officer or emergency personnel, the death of any person not a passenger in the vehicle, or the death of two or more people, it is a class B felony. If the defendant has previously been found guilty of a class B felony in this section, it is a class A felony (§577.010). There were 7 misdemeanor class B probations, one misdemeanor class A probation, 635 felony E probations, 47 felony E new court commitments to prison, 303 felony D probations, 64 felony D new court commitments to prison, 24 felony C probations, 40 felony C new court commitments to prison, 11 felony B probations, and 29 felony B court commitments to prison in FY 2025.

Boating while intoxicated is a class B misdemeanor. If the defendant is a prior boating offender or there is a person under seventeen present in the vessel, it is a class A misdemeanor. If the defendant is a persistent boating offender or they cause physical injury to another person, it is a class E felony. If the defendant is an aggravated boating offender or they cause physical injury to a law enforcement officer or emergency personnel or serious physical injury to another person, it is a class D felony. If the defendant is a chronic boating offender or they cause serious physical injury to a law enforcement officer or emergency personnel or the death of another person, it is a class C felony. If the defendant is a habitual boating offender or they cause the death of a law enforcement officer or emergency personnel, it is a class B felony. If the defendant caused the death of any person not a passenger in the vehicle, or the death of two or more people, it is a class A felony (§577.013). There were no cases under this section in FY 2025.

Operating an aircraft while intoxicated is a class C misdemeanor. If the defendant has previously been found guilty of the offense of operating an aircraft while intoxicated, it is a class A misdemeanor (§577.015). There were no cases under this section in FY 2025.

As the proposed legislation expands the list of controlled substances, additional offenders could be charged with possession of a controlled substance. However, it is unknown to which sections of law this would apply. Therefore, the department is unable to estimate the fiscal impact of this legislation.

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 they do 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.

DOC assumes a fiscal impact of greater than \$250,000 annually.

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the DOC as a negative Unknown greater than \$250,00 annually impact.

Officials from the **Office of the State Public Defender (SPD)** state the number of new charges generated each year by the change to §195.017 is unknown. However, each additional charge would result in significant SPD work, at a minimum of 35 hours per case. Because the number of cases that will be filed where the charge is possession of 7-Hydroxymitragynine 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.

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.

Officials from the **Department of Commerce and Insurance, Department of Health and Senior Services, Department of Public Safety - Missouri Highway Patrol, Office of the State Courts Administrator, City of Kansas City and City of O'Fallon** 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 political subdivisions 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
GENERAL REVENUE			
<u>Cost – DOC (§195.017) Increased incarceration costs p.3-5</u>	(Unknown, more than <u>\$250,000</u>)	(Unknown, more than <u>\$250,000</u>)	(Unknown, more than <u>\$250,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE	(Unknown, more than <u>\$250,000</u>)	(Unknown, more than <u>\$250,000</u>)	(Unknown, more than <u>\$250,000</u>)

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

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act makes 7-hydroxymitragynine (7-OH) in amounts concentrated at a level above 400 parts per million on a dry-weight basis a Schedule I 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

Attorney General's Office
Department of Commerce and Insurance
Department of Corrections
Department of Health and Senior Services
Department of Public Safety, Missouri Highway Patrol
Office of the State Courts Administrator
Office of the State Public Defender
City of Kansas City
City of O'Fallon



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