

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0785-01  
Bill No.: HB 201  
Subject: Drugs and Controlled Substances; Crimes and Punishment  
Type: Original  
Date: January 23, 2015

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Bill Summary: This proposal changes the laws regarding the sale and possession of controlled substances.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
General Revenue	(\$290,396)	(\$75,633)	(\$94,596)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$290,396)</b>	<b>(\$75,633)</b>	<b>(\$94,596)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<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.  
This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</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 2016</b>	<b>FY 2017</b>	<b>FY 2018</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 \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state it would be a violation of state and federal laws, Title 28 CFR 50.12 (b), Title 28 CFR 20.33 (7)(d), Article IV, National Crime Prevention and Privacy Compact and CJIS Security Policy, to access the Missouri Uniform Law Enforcement System (MULES) for noncriminal purposes without fingerprints. If there was a change in state and federal law to allow this search, an interface would need to be created between MULES, Interstate Identification Index (III), and any electronic tracking database. If this were allowable under current law, the first year's cost would be approximately \$270,000. However, because this cannot be done under current law, the Patrol is unable to provide any kind of fiscal impact.

MULES is considered a closed criminal justice network which is available only to law enforcement/criminal justice agencies and personnel. Therefore, MULES would not be available to a pharmacy or pharmacist. The purpose of the interface would be to check if the purchaser has a felony drug conviction or plea. The search of the Missouri criminal history database for a noncriminal justice purpose requires the submission of fingerprints to positively identify the applicant pursuant to Section 610.120, RSMo. If a response for out-of-state felony convictions is also required, fingerprints would need to be taken to produce a positive match of the applicant. The FBI NCIC is also a closed criminal justice network which is only available to law enforcement agencies and would not be available to pharmacies.

For fiscal note purposes, **Oversight** will reflect the \$270,000 cost to the MHP as well as an annual 10% maintenance expense thereafter.

Officials from the **Department of Corrections (DOC)** state this bill would reduce the amount of methamphetamine precursor compounds that an individual may possess, purchase or sell. It is a modification of an existing law about the possession, purchase, and sale of these compounds.

This bill reduces the amount of methamphetamine precursor compounds that an individual may possess before possession is treated as prima facie evidence of intent to violate the statute about manufacture of methamphetamine or its analogs. The new limit would be 15 grams, a decrease from the current amount of 24 grams. Violation of this portion of the bill is a class D felony (later a class E felony). This change in the limits would make the Missouri law similar to an Illinois law already on their books. Additionally, information from the NCBI suggests that methamphetamine cooks can now make the drug with amounts of precursor less than 15 grams, where as historically more than 24 grams were required.

ASSUMPTION (continued)

Additionally, this bill adds a limit on the amount of methamphetamine precursor compounds that an individual may purchase during a one year period. This is in addition to current limits on the amount purchased during a 30 day and 24 hour periods. Knowingly and recklessly violating this portion of the bill is a class A misdemeanor, which the department will not supervise (§217.075).

During FY14, there were a total of 19 new admissions to prison, at an average sentence of 3.2 years each for violations of the possession portion of the bill. Additionally, Probation and Parole received a total of 48 new felony probationers with an average probation term of 4.6 years. A total of 18 offenders were released from prison for this charge in FY14, after having served an average of 7.4 months in prison.

Decreasing the amount of methamphetamine precursor needed for violation of the statute from 24 grams to 15 grams is expected to increase the number of individuals who are sentenced under this statute. While the magnitude of the increase cannot be precisely determined, convictions in other states using the 15 gram limit suggest that it will not be negligible.

If we assume that under this bill sentences under this statute will increase by 10-20%, the effects on the DOC can be estimated. For a 10% increase, there will be approximately 2 additional prison sentences and 5 additional probations each year.

The increase in the prison population will be  $2 * 0.62 = 2$  (after rounding) and the increase will occur in FY16. In addition, the offenders will serve the remainder of the sentence, 2.6 years (3.2-0.6), on parole. As the offense is eligible for earned compliance credits the parole term is estimated at 2 years and will increase the parole population by 2 in FY16 and by 4 in FY17.

The offenders on probation are expected to serve only three years of the probation term because of earned credit compliance credits.

Under these assumptions, the full impact of this legislation will not be felt until the third year after implementation. Thus, when the full impact of this bill has occurred, there will be approximately two more offenders in prison than at present, and an additional 19 on supervision (15 on probation and 4 on parole). These values double if a 20% increase in sentencing.

Therefore, while the total effect on DOC cannot be well determined, it is estimated to be 2-4 additional offenders at Division of Adult Institutions and 19-38 additional supervision clients at Probation & Parole once the full effect of this legislation is felt. In summary, DOC assumes a cost of \$20,396 in FY 2016, \$54,933 in FY 2017, and \$73,896 in FY 2018.

ASSUMPTION (continued)

Officials from the **Office of the State Courts Administrator, Office of Prosecution Services, Department of Health and Senior Services, and the Office of the State Public Defender** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
<b>GENERAL REVENUE</b>			
<u>Costs</u> - Missouri Highway Patrol			
System costs to implement the interface between MULES and the electronic tracking system as well as annual maintenance	(\$270,000)	(\$20,700)	(\$20,700)
<u>Costs</u> - Department of Corrections			
additional costs from persons incarcerated and/or supervised under Probation and Parole	<u>(\$20,396)</u>	<u>(\$54,933)</u>	<u>(\$73,896)</u>
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b><u>(\$290,396)</u></b>	<b><u>(\$75,633)</u></b>	<b><u>(\$94,596)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

Small businesses pharmacies could be impacted by this proposal.

## FISCAL DESCRIPTION

This bill changes the laws regarding the sale and possession of controlled substances. In its main provisions, the bill:

- (1) Lowers, from 24 to 15 grams, the amount of any methamphetamine precursor drug or combination of methamphetamine precursor drugs in which possession is a class D felony;
- (2) Lowers, from 9 to 7.5 grams, the amount of any drug product containing ephedrine, phenylpropanolamine, or pseudoephedrine that can be sold to the same person within a 30-day period without regard to the number of transactions;
- (3) Prohibits a pharmacist, intern pharmacist, or registered pharmacy technician from selling, dispensing, or otherwise providing and a person from purchasing, receiving, or otherwise acquiring any number of packages of any drug product containing ephedrine, phenylpropanolamine, or pseudoephedrine in any total amount greater than 60 grams within any 12-month period without regard to the number of transactions;
- (4) Specifies that the monthly and annual purchase limits contained in these provisions must include any quantities of the products that are purchased in other states if the other state is utilizing the same electronic tracking system utilized in Missouri;
- (5) Specifies that each pharmacy and pharmacist licensed in this state must have the discretion to, in good faith, refuse to sell, dispense, or otherwise provide any individual with any methamphetamine precursor drug and that the pharmacy cannot be subject to criminal or civil liability in choosing to do so;
- (6) Requires any person who has been found guilty or pled guilty or nolo contendere to any felony drug crime to obtain a prescription to purchase, receive, or otherwise acquire any drug or drug product containing any amount of ephedrine, phenylpropanolamine, pseudoephedrine, any of their salts or optical isomers, or salts of optical isomers;
- (7) Requires the Department of Public Safety to implement a method of coordination between the Missouri Uniform Law Enforcement System within the State Highway Patrol and any electronic tracking system that tracks purchases of controlled substances to protect the privacy interests of persons purchasing controlled substances; and
- (8) Specifies that the governing body of any city, county, or other political subdivision that has an ordinance or regulation in effect as of the effective date of these provisions requiring a prescription to purchase, receive, or otherwise acquire any drug or drug product containing any

FISCAL DESCRIPTION (continued)

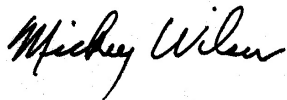
detectable amount of ephedrine, phenylpropanolamine, pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers must vote whether to continue its existing ordinance or regulation within 90 days.

This bill also changes these provisions in the newly revised criminal code that will take effect on January 1, 2017.

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 Public Safety - Missouri Highway Patrol  
Office of Prosecution Services  
Office of the State Courts Administrator  
Department of Corrections  
Office of the State Public Defender  
Department of Health and Senior Services



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January 23, 2015

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January 23, 2015