

LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT

LS 6709
BILL NUMBER: HB 1298

NOTE PREPARED: Jan 7, 2026
BILL AMENDED:

SUBJECT: Classification of Marijuana and THC.

FIRST AUTHOR: Rep. Lucas
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill moves marijuana and tetrahydrocannabinol (THC) from classification as schedule I controlled substances to Schedule III. It makes a conforming amendment.

Effective Date: July 1, 2026.

Explanation of State Expenditures: *Summary:* The bill could reduce costs to the state, if fewer individuals are committed to the Department of Correction (DOC) for felony enhancements for operating while intoxicated (OWI) offenses. This would only impact OWI offenses causing *at least* serious bodily injury, in cases where marijuana, THC, or a metabolite is present in a person's blood, but the person is *not intoxicated*. The bill should not impact drug dealing or possession penalties. The amount of the reduction is not known, but is likely small.

Additional Information: The bill would not affect prosecution of OWI offenses relating to marijuana or THC, if the person is intoxicated (impaired, see definition below). Prosecuting OWI offenses related to Schedule I or II controlled substances only requires that the drug, or its metabolite, be present in the person's blood. Therefore, changing marijuana and THC from Schedule I to III would only eliminate charges where the drug is present in the person's blood, but the person was *not intoxicated*.

On average, there are about 38 individuals each year (out of 143 felony convictions each year) who are committed to the DOC, with their highest convicted charge being an OWI offense with an enhancement related to a Schedule I or II controlled substance *and* where intoxication is not listed. However, the specific controlled substance is not listed (based on felony data from FY 2021 to FY 2025). The incremental cost to house an adult offender is \$4,825 annually per prisoner (or \$13.22 daily) for medical care, food, and clothing. The incremental cost for juvenile facilities was \$8,986 annually (or \$24.62 daily).

[“Intoxicated” is defined as being “under the influence” of alcohol, a controlled substance [any Schedule], another drug, any combination of those, or any other substance (with certain food, tobacco, or dietary supplement exclusions) so that “there is an *impairment* of thought and action and the loss of normal control

of a person's faculties.]

[The change in classification for marijuana and THC should not impact felony drug convictions. Marijuana (including hashish and hash oil) offenses are currently separate from those of other controlled substances. Penalties for Schedule I controlled substances and Schedule III controlled substances are the same, with the exception of specific drugs - cocaine, narcotics (opioids), fentanyl-containing substances, methamphetamine, and heroin.]

Explanation of State Revenues: The bill will reduce the number of court cases where the only filed charge is for an OWI offense where THC is present in a person's blood, but the person is not intoxicated. These are Class C misdemeanors. There are about 300 misdemeanor convictions each year for an OWI offense, indicating a Schedule I or II controlled substance present, where intoxication is not listed. However, the specific controlled substance is not listed. About 239 of these have only one convicted charge, although they may have other dismissed charges. Some of these convictions may be eliminated.

If fewer court cases occur and fewer fines are collected, revenue to both the state General Fund (from court fees) and Common School Fund (from fines) would decrease. The total fee revenue per case would range between \$113 and \$138, depending on whether the case is filed in a court of record or a municipal court. The maximum fine for a Class C misdemeanor is \$500. Revenue could also be reduced if there are fewer fees imposed for drug-related convictions. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Explanation of Local Expenditures: The bill could reduce OWI convictions in which THC is present in a person's blood, but the person is not intoxicated. These are Class C misdemeanor, which are punishable by up to 60 days in jail. This could decrease local jail expenditures. The Gateway reports show that in CY 2023, housing offenders in 33 Indiana county jails cost an average of \$56 to \$79 per day, while the average daily cost for community corrections supervision is \$10.96 per day and for probation supervision is \$3.39 per day.

Explanation of Local Revenues: The bill will reduce the number of court cases and convictions, which will reduce revenue to certain local units. Revenue could also be reduced if there are fewer fees imposed for drug-related convictions. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Department of Correction;
Indiana Sheriffs' Association, Indiana Supreme Court, Indiana Trial Court Fee Manual;
Indiana Gateway for Government Units, 2023 Annual Financial Reports,
<https://gateway.ifionline.org/public/download.aspx>;
Bureau of Justice Statistics, 2023 Annual Survey of Jails Data Series,
<https://www.icpsr.umich.edu/web/NACJD/series/7>.

Fiscal Analyst: Heather Puletz, 317-234-9484.