



## Fiscal Note

### Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

#### HB 25-1063: FDA-APPROVED CRYSTALLINE POLYMORPH PSILOCYBIN USE

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**Prime Sponsors:**

Rep. Hartsook; Brown  
Sen. Michaelson Jenet

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### Summary Information

**Overview.** The bill exempts psilocybin that is approved by the Food and Drug Administration from the Colorado controlled substances list.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Workload
- Local Government

**Appropriations.** No appropriation is required.

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**Table 1**  
**State Fiscal Impacts**

<b>Type of Impact</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

## Summary of Legislation

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Under current law, psilocybin is listed in Colorado's Uniform Controlled Substances Act of 2013 under Schedule I, which indicates that it has a high potential for abuse, no accepted medical use, and is unsafe. The bill changes the definition of psilocybin in Schedule I to exempt prescription drug products containing crystalline polymorph psilocybin if such prescription drugs are approved by the U.S. Food and Drug Administration (FDA).

## Background

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As of the time of publication, psilocybin has not been approved by the FDA. However, the FDA issued guidance to drug manufacturers in June 2023 for using psilocybin to treat certain mental disorders. This guidance allows manufacturers to conduct clinical trials which can be evaluated by the FDA to consider approving psilocybin as a legal substance.

## Comparable Crime Analysis

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Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

## Prior Conviction Data and Assumptions

This bill modifies the factual basis for the existing offense of possession of a controlled substance by removing FDA-approved psilocybin from the list of controlled substances. In FY 2022-23, 5,684 offenders were convicted for possessing a schedule I or II controlled substance. The number of convictions that were specifically for possession of psilocybin is not available, but are assumed to be minimal. As such, the fiscal note assumes that any decrease to controlled substance convictions will be minimal. Visit [leg.colorado.gov/fiscalnotes](https://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## State Revenue and Expenditures

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Based on the assumptions above, this analysis assumes that there will be a minimal impact on state revenue and expenditures in the criminal justice system and workload in the Department of Revenue (DOR) and the Department of Regulatory Agencies (DORA). The Department of Law may require additional appropriations. These impacts are discussed below.

## **Criminal Justice System**

Based on the assumptions above, this analysis assumes that there will be a minimal decrease on state revenue and expenditures if the FDA approves certain types of psilocybin. Under the bill, criminal fines and court fees, which are subject to TABOR, may decrease by a minimal amount. Similarly, any decrease in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons, and to the Department of Corrections, is assumed to be minimal and no change in appropriations is required.

## **State Departments**

The Natural Medicine Division in the DOR and the Natural Medicine Program in the Division of Professions and Occupations as well as the Division of Insurance in DORA may conduct additional outreach and education to the regulated communities on these changes to the criminal code should the FDA approve psilocybin. This can be accomplished within existing appropriations.

If the FDA approves prescribed psilocybin, and that approval creates confusion or unlicensed practice for the programs in DOR or DORA, the Department of Law may need to provide legal services to these agencies. This will be addressed through the annual budget process, if necessary.

## **Local Government**

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Similar to the state, it is expected that any workload or cost decreases for district attorneys to prosecute fewer offenses, or for county jails to hold fewer individuals under the bill will be minimal.

## **Effective Date**

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The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## **State and Local Government Contacts**

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Judicial	Public Safety
Law	Regulatory Agencies
Public Health and Environment	Revenue

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).