



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

| | | | |
|-------------------------|--------------|----------------|-----------------------------------------------------------------------------|
| Bill # | HB0428 | Title: | Generally revise civil liability laws related to state and local government |
| Primary Sponsor: | Mercer, Bill | Status: | As Introduced |

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

| | <u>FY 2022</u> <u>Difference</u> | <u>FY 2023</u> <u>Difference</u> | <u>FY 2024</u> <u>Difference</u> | <u>FY 2025</u> <u>Difference</u> |
|-----------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Expenditures: | | | | |
| General Fund | \$0 | \$0 | \$0 | \$0 |
| Revenue: | | | | |
| General Fund | \$0 | \$0 | \$0 | \$0 |
| Net Impact-General Fund Balance: | \$0 | \$0 | \$0 | \$0 |

Description of fiscal impact: SB 428 has no fiscal impact to the Department of Administration, the Department of Justice, or local government entities. The bill allows public safety officers to retain custody of an immigration detainee if a request is issued by the federal immigration agency to continue custody on its behalf.

FISCAL ANALYSIS

Assumptions:

Department of Administration

State Financial Services Division - Local Government Services Bureau

- Section 1 (5) of SB 428 gives immunity to the state, counties, cities, towns, and all other local governmental entities from any suit relating to the provisions of the section.

Risk Management and Tort Defense Division

- There is no measurable fiscal impact from SB 428.

Department of Justice

- This bill creates a statutory duty for public safety officers to arrest individuals already in custody who are subject to immigration detainer requests. The Montana Highway Patrol estimates that this will require assistance by the Department of Justice approximately 10 times per year which can be covered within existing HB 2 resources.

Effect on County or Other Local Revenues or Expenditures:

Montana Association of Counties and Montana League of Cities and Towns

1. HB 428 requires a non-discretionary arrest and detention in cases where law enforcement becomes aware of a federal detainer request. Although the bill provides for a local government immunity provision, the liability coverage provisions of most county insurance plans would trigger coverage and defense of any law enforcement officer acting within the course and scope of their employment.
2. This bill may add an additional claim for wrongful incarceration in cases where an officer cannot exercise discretion and is compelled to hold on the detainer request. Naming an individual officer in a complaint alleging wrongful incarceration will in all likelihood be a covered event when the officer is acting within the course and scope of his employment. Counties and their insurers will be compelled to defend these claims.



Sponsor's Initials

Date



Budget Director's Initials

2/22/21

Date