



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

HB0301 - Revise laws relating to dangerous drugs (Baum, Denise)

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 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$320,441	\$1,281,763	\$1,300,990	\$1,320,504
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$320,441)</u>	<u>(\$1,281,763)</u>	<u>(\$1,300,990)</u>	<u>(\$1,320,504)</u>

Description of fiscal impact: HB 301 amends 45-9-101, MCA, Criminal Distribution of Dangerous Drugs, by creating a penalty enhancement for knowingly possessing, or using a firearm or other dangerous weapon during the commission of the offense. The increased penalty would be a term of imprisonment of no less than 2 years or more than 10 years. This bill also amends 45-9-103, MCA, Criminal Possession with Intent to Distribute, by increasing the penalty upon conviction, with a similar penalty enhancement for knowingly possessing, or using a firearm or other dangerous weapon during the commission of the offense. The penalty enhancement would also be in addition to the penalty imposed for commission of the underlying offense. The passage of HB 301 could have a significant fiscal impact on the Department of Corrections (DoC) by creating an increase in the length of prison or probationary sentences for certain drug-related offenses.

FISCAL ANALYSIS

Assumptions:

Department of Corrections (DoC)

1. HB 301 adds a penalty enhancement to criminal distribution of dangerous drugs and criminal possession with intent to distribute if the individual is in possession of a dangerous weapon during the commission of the crimes. It requires a mandatory minimum two-year sentence for the possession of a dangerous weapon, in addition to the sentence for the underlying crime.
2. The DoC assumes this will increase the number of offenders incarcerated in a secure care facility.
3. Using a 3-year average (2019, 2020, and 2022), approximately 26 offenders were charged under these statutes and had deferred sentences. DoC assumes 60% of these convictions, or 16 offenders, would be assessed the enhanced penalty and serve the minimum of 2 years in prison. (These averages exclude 2021, as that year was an outlier for all crimes due to the impacts of the COVID-19 pandemic.)
4. The department assumes that those sentences will begin 6 months after the start of the fiscal year, on January 1, 2024.
5. The average daily cost of secure care facilities in Montana is \$109.74, or \$40,055 per year.
6. The department assumes a 1.5% inflationary multiplier in FY 2026 and FY 2027.

Office of Public Defender (OPD)


7. To obtain the additional weapon enhancement penalty for drug offenses, the prosecution would have to prove to a jury the additional facts that the defendant knowingly possessed or used a dangerous weapon while engaged in commission of the drug offense.
8. Resolution of these additional jury questions would likely result in additional litigation time; however, as OPD does not track specific case circumstance, such as weapon involvement, OPD has no present basis upon which to predict how often this additional penalty would be sought nor how much additional attorney time litigating drug charges with this new penalty would require.
9. It is unknown how many bills are seeking to add to the duties of the Office of Public Defender. The fiscal note of each bill is prepared based on the effect of each individual bill. However, when viewed as a package, the cumulative effect of passage of more than one bill would require additional analysis and may require additional resources. OPD may not be able to absorb the work required to defend individuals based upon this legislation.

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<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Operating Expenses	\$320,441	\$1,281,763	\$1,300,990	\$1,320,504
TOTAL Expenditures	<u>\$320,441</u>	<u>\$1,281,763</u>	<u>\$1,300,990</u>	<u>\$1,320,504</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$320,441	\$1,281,763	\$1,300,990	\$1,320,504
TOTAL Funding of Exp.	<u>\$320,441</u>	<u>\$1,281,763</u>	<u>\$1,300,990</u>	<u>\$1,320,504</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$320,441)	(\$1,281,763)	(\$1,300,990)	(\$1,320,504)

NOT SIGNED BY SPONSOR

Sponsor's Initials

Date



Budget Director's Initials

1-27-23

Date