



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

HB0791 - Generally revise drug crime sentences (Sprunger, Courtenay)

Status: As Amended in House Committee

- 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 Difference</u>	<u>FY 2025 Difference</u>	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>
Expenditures:				
General Fund	\$160,220	\$160,220	\$162,624	\$165,063
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$160,220)</u>	<u>(\$160,220)</u>	<u>(\$162,624)</u>	<u>(\$165,063)</u>

Description of fiscal impact: HB 791 would amend 45-9-101, MCA, criminal distribution of dangerous drugs, and 45-9-103, MCA, by creating a two-year mandatory minimum for criminal distribution of fentanyl. The mandatory minimum for both charges would be a term of imprisonment of no less than 2 years or more than 40 years or may be fined not more than \$50,000, or both. It is assumed the passage of HB 791 will increase the number of offenders or extend offender stays thus increasing costs to the Department of Corrections (DoC).



FISCAL ANALYSIS

Assumptions:

- As amended, there is no change to the fiscal impact for the Department of Corrections.
- HB 791 adds a two-year mandatory minimum to criminal distribution of fentanyl or possession with intent to distribute fentanyl.
- In FY 2022, there were 42 convictions with a sentence of less than two years under 45-9-101, MCA, and 45-9-103, MCA. The department assumes that of these 42 convictions, 10% would qualify for an exception to the mandatory minimum under 46-18-222, MCA.

4. The department does not have records that would indicate how many of those 42 convictions in the state of Montana are related to fentanyl. In 2021, the U.S. Sentencing Commission released data indicating that fentanyl was involved in 9.4% of drug trafficking offenses. For purposes of this fiscal note, DoC applied this statistic to assume that approximately 9.4% of the remaining convictions (excluding the 10% assumed to qualify for an exception under 46-18-222, MCA) would be fentanyl-related convictions and serve the minimum of 2 years in prison. This equates to four offenders. If the % of drug trafficking expenses is greater than 9.4%, the associated fiscal impact would be proportionally greater.
5. The department assumes that sentence length for those offenders would increase, on average, by one year.
6. The average daily cost of secure care facilities in Montana is \$109.74, or \$40,055 per year.
7. The department assumes a 1.5% inflationary multiplier in FY 2026 and FY 2027.

	<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>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Operating Expenses	\$160,220	\$160,220	\$162,624	\$165,063
TOTAL Expenditures	<u>\$160,220</u>	<u>\$160,220</u>	<u>\$162,624</u>	<u>\$165,063</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$160,220	\$160,220	\$162,624	\$165,063
TOTAL Funding of Exp.	<u>\$160,220</u>	<u>\$160,220</u>	<u>\$162,624</u>	<u>\$165,063</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)	(\$160,220)	(\$160,220)	(\$162,624)	(\$165,063)

	<u>3-27-23</u>		<u>3-24-23</u>
Sponsor's Initials	Date	Budget Director's Initials	Date