



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: HB0344.02 R (001): Revise criminal laws.

Primary Sponsor: Braxton Mitchell

Status: As Amended in House Committee - Revised

☐ Included in the Executive Budget

☒ Needs to be included in HB 2

☐ Significant Local Gov Impact

☐ Significant Long-Term Impacts

☒ Technical Concerns

☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

| | <u>FY 2026 Difference</u> | <u>FY 2027 Difference</u> | <u>FY 2028 Difference</u> | <u>FY 2029 Difference</u> |
|-----------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| Expenditures | | | | |
| General Fund (01) | \$547 | \$547 | \$547 | \$547 |
| Revenues | | | | |
| General Fund (01) | \$0 | \$0 | \$0 | \$0 |
| Net Impact | <u>(\$547)</u> | <u>(\$547)</u> | <u>(\$547)</u> | <u>(\$547)</u> |
| General Fund Balance | | | | |

Description of fiscal impact

HB 344 creates an additional type of driving under the influence. There is minimal fiscal impact to the Department of Justice. The fiscal impact to the Office of Public Defender cannot be predicted but could be significant.

FISCAL ANALYSIS

Assumptions

Department of Justice (DOJ)

1. In accordance with HB 344, as amended, will require blood testing which the majority of which will occur at the Montana Crime Lab. In 2024, the lab needed two send two blood samples to an outside vendor for processing at a cost of \$287 each for a total \$547. It is assumed the same number would be required to be sent out for testing in the future.

Office Public Defender (OPD)

2. OPD assumes that expanding the conduct for which DUI offenses can be charged would increase the number of cases to which OPD will be appointed each year.
3. However, because OPD has no historical data regarding the frequency of this new offense conduct, OPD assumes no ability to predict how many such new DUI charges would result from this bill nor how many of those charges would be felonies or misdemeanors based on the defendant's prior DUI history.
4. Because OPD's FTE staff is already working at capacity, OPD assumes any increase in cases to which OPD is appointed would be represented by contract public defenders.
5. OPD assumes the estimated cost of representation by contract public defenders would be \$97.50 per hour (\$90 per hour professional services rate plus average travel expenses of \$7.50 per case hour).
6. OPD assumes new misdemeanor DUIs would be weighted at 7 case weight hours and new felony DUIs would be weighted at 15 case weight hours per matter.

7. OPD assumes the total impact of this bill on OPD would be a number of new misdemeanor DUIs filed (unknown) times 7 hours per matter times \$97.50 per hour plus the number of new felony DUIs filed (unknown) times 15 hours per matter times \$97.50 per hour.

Fiscal Analysis Table

| | | | | |
|---|--------------|--------------|--------------|--------------|
| Operating Expenses | \$0 | \$0 | \$0 | \$0 |
| outside testing | \$547 | \$547 | \$547 | \$547 |
| TOTAL Expenditures | \$547 | \$547 | \$547 | \$547 |
| General Fund (01) | \$547 | \$547 | \$547 | \$547 |
| TOTAL Funding of Expenditures | \$547 | \$547 | \$547 | \$547 |
| Net Impact to Fund Balance (Revenue minus Funding of Expenditures) | | | | |
| General Fund (01) | (\$547) | (\$547) | (\$547) | (\$547) |

Technical Concerns

Department of Justice

- The current laboratory used for outsourcing does not have a test to quantify heroin, as it processes so quickly through the body and converts to 6-monoacetyl morphine and morphine. Therefore, (f)(iv) will not be feasible.
- The toxicology lab does not have methods to quantify 6-monoacetyl morphine, lysergic acid diethylamide, and phencyclidine. Detections of those drugs would need to be outsourced for quantitative results. When these cases move on to trial, under current lab policy it would be the responsibility of the prosecuting attorney's office to arrange for testimony and provide compensation to the private expert during trial.
- The blood nanograms per milliliter listed for the remaining substances do not match the existing quantitative limits used by the toxicology lab. The current methods used would have to be reconfigured, recalculated, and revalidated, which would take weeks or months to accomplish. In some instances, the levels listed may not be possible with current lab capabilities furthering the need for outsourcing. The Department of Justice recommend the following levels which are consistent with current lab capabilities: 20 ng/mL instead of 10 ng/mL for (f) (i), (ii),(iii), (A),(vii), and .5 ng/mL for (ix) fentanyl instead of 1 ng/mL.
- Definitions:
- ****Detection limits and quantitative limits for one drug are typically not the same.**

Sponsor's Initials

B-A

Date

2/18/25

Budget Director's Initials

RD

Date

2/17/2025