



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **HB0702.01: Generally revise laws relating to criminal acts**

Primary Sponsor: **Kerri Seekins-Crowe**

Status: **As Introduced**

☐ 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

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Expenditures				
General Fund (01)	\$1,280,610	\$1,622,762	\$1,849,613	\$1,978,038
Revenues				
General Fund (01)	\$0	\$0	\$0	\$0
Net Impact	<u>(\$1,280,610)</u>	<u>(\$1,622,762)</u>	<u>(\$1,849,613)</u>	<u>(\$1,978,038)</u>
General Fund Balance				

Description of fiscal impact

HB 702 creates a new crime of operating an unauthorized, unmanned aerial vehicle over a correctional institution without consent of the correctional institution. It also increases penalties for the charge of Assault with a Bodily Fluid, and amends 45-7-307, MCA, "Possessing or transferring illegal articles -- unauthorized communication" to add possession as a chargeable offense. Lastly, the bill amends the definition of "persistent felony offender" to include offenders who were inmates at the time of their crime. There are fiscal impacts to the Department of Corrections and the Office of Public Defender.

FISCAL ANALYSIS

Assumptions

Department of Corrections (DoC)

- HB 702 adds a new section for unauthorized, unmanned aerial vehicles over a correctional institution. From FY 2021 to FY 2024 there have been nine (9) cases investigated.
 - Assuming an average of two (2) new cases per year with a sentence of two (2) years FY 2026 would have a fiscal impact of \$67,160 (2 inmates x \$92 per day x 365 days). FY 2027 would be \$134,320 (4 inmates x \$92 per day x 365 days).
 - Assuming a 1.5% inflationary factor, FY 2028 would be \$136,335 and FY 2029 would be \$138,380.
- Section 2 amends 45-5-214, MCA, Assault with a Bodily Fluid, changing the penalties from incarceration in the county jail to incarceration in the state prison for a period of 1-3 years. From FY 2022 to FY 2024 there were 94 new cases of this instance.
 - Assuming an average of 31 new cases per year where the inmate spent one (1) year in the state prison and then two (2) years under supervision, the DoC would need to add one 1.00 FTE for FY 2027 and subsequent years. This FTE would cost \$72,417 in FY 2027. Assuming a 1.5% inflationary factor in FY 2028 it would be \$73,503 and FY 2029 would be \$74,606.

- b. Operating costs in FY 2026 would be \$1,040,980 (31 inmates x \$92 per day x 365 days) for secure care for a total of \$1,040,980. In FY 2027 secure care would be \$1,040,980 (31 inmates x \$92 per day x 365 days), supervision would be \$101,835 (31 inmates x \$9 per day x 365 days) and FTE \$72,417 for a total of \$1,215,232.
 - c. Assuming a 1.5% inflationary factor, in FY 2028 the cost would be \$1,333,768 and FY 2029 would be \$1,350,719.
3. Section 3 amends 45-7-307, MCA, "Possessing or transferring illegal articles -- unauthorized communication" adding possession as a chargeable offense. From FY 2022 to FY 2024 there were eight (8) new cases of this instance.
- a. Assuming an average of two (2) new cases per year where one (1) inmate went to prison for longer than four (4) years and one (1) went directly to supervision for one (1) year, the fiscal impact in FY 2026 would be \$33,580 for secure care (1 inmate x \$92 per day x 365 days) and \$3,285 for supervision (1 inmate x \$9 per day x 365 days) for a total of \$36,865. FY 2027 would be \$67,160 for secure care (2 inmates x \$92 per day x 365 days) and \$3,285 for supervision (1 inmate x \$9 per day x 365 days) for a total of \$70,445.
 - b. Assuming a 1.5 inflationary factor FY 2028 would be \$105,536 and FY 2029 would be \$141,665
4. Section 4 amends the definition of "persistent felony offender" adding the stipulation if the inmate was incarcerated at the time of the felony, lifetime felonies count toward persistent felony offender. From FY 2022 to FY 2024 there were five (5) new cases of this instance.
- a. Assuming an average of two (2) new cases per year and longer than a four (4) year sentence, the fiscal impact would be \$67,160 (2 inmates x \$92 per day x 365 days) in FY 2026 and \$134,320 in FY 2027 (4 inmates x \$92 per day x 365 days).
 - b. Assuming a 1.5% inflationary factor FY 2028 would be \$204,502 and FY 2029 would be \$276,760.
5. The total fiscal impact to the DoC is:
- a. FY 2026 \$1,212,165
 - b. FY 2027 \$1,554,317
 - c. FY 2028 \$1,780,141
 - d. FY 2029 \$1,907,524.

Office of Public Defender (OPD)

6. OPD assumes that HB 702's creation of a new felony offense of Operating an Unauthorized, Unmanned Aerial Vehicle in Proximity to a Correctional Institution, elevation of Assault with a Bodily Fluid to a felony offense, expansion of the offense of Transferring Illegal Articles to include Possessing or Transferring Illegal Articles, and expansion of the definition of a Persistent Felony Offender (PFO) to include any defendant charged with committing a crime while an inmate would each increase the number and severity of cases to which OPD would be appointed each year.
7. OPD assumes the new offense of Operating an Unauthorized, Unmanned Aerial Vehicle in Proximity to a Correctional Institution and the expanded offense of Possessing or Transferring Illegal Articles would both be weighted at 10 hours per case.
8. However, because OPD has no historical data regarding the frequency of this new offense conduct, OPD is unable to determine how many such new Operating an Unauthorized, Unmanned Aerial Vehicle in Proximity to a Correctional Institution or Possessing or Transferring Illegal Articles charges would result from HB 702 and, thus, cannot determine a specific fiscal impact at this time.
9. OPD assumes the expansion of PFO would not alter the case weight hours of any case and would, thus, have no fiscal impact.
10. OPD assumes that elevating Assault with a Bodily Fluid from a misdemeanor to felony would increase the case weight hours by 13 hours (from 7 to 20 hours) for matters in which the controlling (most serious) charge for case weight purposes would be felony Assault with a Bodily Fluid.
11. Based on FY 2024, OPD assumes that each year OPD would be appointed to 54 cases in which felony Assault with a Bodily Fluid would be the most serious, controlling charge for assigning case weight.

12. Because OPD's FTE staff is already working at capacity, OPD assumes any increase in the work to which OPD is appointed would be handled by contract public defenders.
13. OPD assumes the 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).
14. OPD, therefore, assumes the total, determinable impact of HB 702 on OPD would be \$68,445 per year: 54 cases per year in which felony Assault with a Bodily Fluid would be the most serious, controlling charge times 13 additional hours per such case times \$97.50 per hour.
15. OPD assumes 1.5% inflation for FY 2028 and for FY 2029.
16. The addition of felony crimes to the MCA, will over time require additional resources for OPD as staff attorneys are already at full caseloads.

Judiciary

17. HB 702 would create a new offense if a person operates an unauthorized, unmanned aerial vehicle in proximity to a correction institution if the person purposely or knowingly operates or assists in the operation of an unmanned aerial vehicle over a correction institution without authorization of the correction institution.
18. A person convicted of the offense shall be imprisoned in a state prison.
19. This section of this legislation may increase District Court workload but the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact. The cumulative impact of any legislation creating new offenses may over time require additional judicial resources because court dockets are generally full throughout the state.

Fiscal Analysis Table

Department of Corrections				
	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
<u>Fiscal Impact</u>				
FTE	0.00	1.00	1.00	1.00
TOTAL Fiscal Impact	0.00	1.00	1.00	1.00
<u>Expenditures</u>				
Personal Services	\$0	\$72,417	\$73,503	\$74,606
Operating Expenses	\$1,212,165	\$1,481,900	\$1,706,638	\$1,832,918
TOTAL Expenditures	\$1,212,165	\$1,554,317	\$1,780,141	\$1,907,524
<u>Funding of Expenditures</u>				
General Fund (01)	\$1,212,165	\$1,554,317	\$1,780,141	\$1,907,524
TOTAL Funding of Expenditures	\$1,212,165	\$1,554,317	\$1,780,141	\$1,907,524
<u>Revenues</u>				
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u>				
General Fund (01)	(\$1,212,165)	(\$1,554,317)	(\$1,780,141)	(\$1,907,524)

Public Defender

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
<u>Fiscal Impact</u>				
<u>Expenditures</u>				
Operating Expenses	\$68,445	\$68,445	\$69,472	\$70,514

Fiscal Note Request - As Introduced
(continued)

TOTAL Expenditures	<u>\$68,445</u>	<u>\$68,445</u>	<u>\$69,472</u>	<u>\$70,514</u>
Funding of Expenditures				
General Fund (01)	\$68,445	\$68,445	\$69,472	\$70,514
TOTAL Funding of Expenditures	<u>\$68,445</u>	<u>\$68,445</u>	<u>\$69,472</u>	<u>\$70,514</u>
Revenues				
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
General Fund (01)	<u>(\$68,445)</u>	<u>(\$68,445)</u>	<u>(\$69,472)</u>	<u>(\$70,514)</u>

STATEWIDE SUMMARY

	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Fiscal Impact				
FTE	0.00	1.00	1.00	1.00
TOTAL Fiscal Impact	<u>0.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>
Expenditures				
Personal Services	\$0	\$72,417	\$73,503	\$74,606
Operating Expenses	\$1,280,610	\$1,550,345	\$1,776,110	\$1,903,432
TOTAL Expenditures	<u>\$1,280,610</u>	<u>\$1,622,762</u>	<u>\$1,849,613</u>	<u>\$1,978,038</u>
Funding of Expenditures				
General Fund (01)	\$1,280,610	\$1,622,762	\$1,849,613	\$1,978,038
TOTAL Funding of Expenditures	<u>\$1,280,610</u>	<u>\$1,622,762</u>	<u>\$1,849,613</u>	<u>\$1,978,038</u>
Revenues				
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
General Fund (01)	<u>(\$1,280,610)</u>	<u>(\$1,622,762)</u>	<u>(\$1,849,613)</u>	<u>(\$1,978,038)</u>

Technical Concerns
Department of Corrections

1. In Section 3 of the bill, additional language may be needed to clarify that illegal possession is limited to persons subject to official detention. Penalty sections of the statute may also need to be updated to include language regarding possession.

NOT SIGNED BY SPONSOR

Sponsor's Initials

Date



Budget Director's Initials

3/1/2025

Date