



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

HB0398 - Define recidivism for executive branch and judicial branch reporting (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 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	\$273,708	\$265,308	\$269,288	\$273,327
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$273,708)</u>	<u>(\$265,308)</u>	<u>(\$269,288)</u>	<u>(\$273,327)</u>

Description of fiscal impact: HB 398 requires the Department of Corrections (DoC) to “create an inventory of every offender sentenced for a felony by a state court on or after July 1, 2020.” Both the Montana Department of Justice (DOJ) as well as the Judicial Branch are required to provide data for the calculation. DoC would also be required to determine the recidivism rate, annually, for offenders sentenced in the previous fiscal year using a look back to the previous five years of their criminal history.

FISCAL ANALYSIS

Assumptions:**Department of Corrections**

1. The reporting requirements of HB 398 require internal staffing to develop the processes necessary to create the reports and maintain the information. The additional information requested will require manual review of each offender (2,741 offenders) by individuals with knowledge of record interpretation to meet the requirements. Manual review will be required to compile the following information:
 - a. The department’s Offender Management Information System (OMIS) does not have the ability to determine an offender’s “Controlling Sentence”, therefore a manual review of each offender’s various criminal case files in the respective courts of record will be required to determine which cases are

active, new, and historic, and to filter this data to show only those cases that meet the criteria outlined in the bill (felonies sentenced after July 1, 2020).

- b. In order to determine placement history, manual review of each offender’s case history will be required to compare the dates of sentence and the dates of placement in order to exclude placements for sentences that are not included in the criteria. This manual review will also be required to ensure that the department is properly recording instances where the offender may change locations during the same placement (for example, when an offender in a prerelease center goes to jail for a sanction, then returns to the prerelease center).
 - c. Section 1 of the bill requires the department to “identify the crime or violations that required the offender’s inclusion in the report”. For reports of violation/revocation, this is not currently tracked in OMIS. Manual research will be needed to review revocation documents and minutes from the Clerk of District Court or Board of Pardons and Parole to determine which violation applied.
2. HB 693, from the 2021 legislative session, implemented a smaller subset of reporting requirements than HB 398. The manual research required to complete this report involved 4 staff members and took approximately 4 months. Due to the larger scope of this bill, the department anticipates that the on-going data compilation and analysis detailed above would require 3.00 FTE Research Analysts. Two of these FTE would be responsible for manually researching and reviewing records, and one would be responsible for compiling data, creating reports, and performing analysis. The salary and benefits for each position is \$88,436 in FY 2024 and FY 2025.
 3. The department assumes a 1.5% inflationary multiplier in FY 2026 and FY 2027.
 4. The \$2,800 new employee package, includes a computer and office furniture, is included in operating expenses for all FTE.

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<u>Fiscal Impact:</u>				
FTE	3.00	3.00	3.00	3.00
<u>Expenditures:</u>				
Personal Services	\$265,308	\$265,308	\$269,288	\$273,327
Operating Expenses	\$8,400	\$0	\$0	\$0
TOTAL Expenditures	<u>\$273,708</u>	<u>\$265,308</u>	<u>\$269,288</u>	<u>\$273,327</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$273,708	\$265,308	\$269,288	\$273,327
TOTAL Funding of Exp.	<u>\$273,708</u>	<u>\$265,308</u>	<u>\$269,288</u>	<u>\$273,327</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)	(\$273,708)	(\$265,308)	(\$269,288)	(\$273,327)

Technical Notes:

1. HB 398 requires publication of an offender’s criminal history, which is typically not considered a public record. In some instances, the department can manually access this information via presentence investigation reports (PSR); however, not every offender has a PSR. Section 46-18-113, MCA states that the PSR is a part of the court record but may not be opened for public inspection. Further clarification is necessary for the department to determine what information would be eligible for inclusion in these reports.
2. Section 1 of the bill requires this report to be made no later than September 1 of each year. Given the manual research required in completing these calculations, the department is unlikely to meet that deadline. Given the requirements of the bill, a deadline of January 1 may be more feasible.
3. The department believes some, if not all, of the fiscal impact of the bill would be eliminated with a later date of implementation to allow for the procurement of a new offender management system as proposed in HB 10, as well as with coordinating language with SB 11 regarding comprehensive criminal justice system data collection in Montana.

NOT SIGNED BY SPONSOR

Sponsor’s Initials

Date



Budget Director’s Initials

2-15-23

Date