



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2027 Biennium

Bill#/Title: HB0541.01: Revise DUI laws to include controlled substances

Primary Sponsor: Steven Kelly 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

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
<b>Expenditures</b>				
General Fund (01)	\$52,569	\$55,845	\$56,584	\$57,334
<b>Revenues</b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>Net Impact</b>	<u>(\$52,569)</u>	<u>(\$55,845)</u>	<u>(\$56,584)</u>	<u>(\$57,334)</u>
<b>General Fund Balance</b>				

### Description of fiscal impact

HB 541 revises laws related to driving under the influence, adding driving while under the influence of alcohol and a controlled substance as an offense. There would likely be a revenue increase for the general fund and counties, and an indeterminate increase to the number of DUI appeals if passed.

### FISCAL ANALYSIS

#### Assumptions

#### Department of Justice

1. It is not possible to project the increase in DUI appeal cases the Appellate Services Bureau would experience due to HB 542 revisions, nor to gauge the potential fiscal impact.
2. In calendar year 2024, the Montana Highway Patrol issued 1,870 citations for 61-8-1002, MCA; the Highway Patrol does not track how many of the citations would fall into the new part of 61-8-1002.
3. Half of fine revenue goes to the general fund and half goes to the county the citation was written.
4. The actual revenue increase depends on the number of citations written and the fine amount imposed by the court.

#### Department of Corrections

5. HB 541 amends statute 61-8-1002, MCA, to include operating a noncommercial vehicle or commercial motor vehicle within this state while under the influence of alcohol and a controlled substance. The first conviction carries a sentence of no less than 13 months or more than two (2) years to the Department of Corrections (DoC) for placement in either an appropriate correctional facility or a program. This change will increase the costs to DoC.
6. The DoC assumes an average of two (2) new felony DUI convictions to a treatment facility per year. The offenders would serve six (6) months in treatment followed by one (1) year on probation.
7. The total cost in FY 2026 for two (2) offenders in treatment would be \$49,275 (2 offenders x \$135 day x 183 days) and two (2) would be sentenced to probation for six (6) months costing \$3,294 (2 offenders x \$9

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(continued)

day x 183 days) for a total of \$52,569. In FY 2027 it would be two (2) in treatment for a cost of \$49,275 (2 offenders x \$135 day x 183 days) and probation would be \$6,570 (2 offenders x \$9 day x 365 days) for a total of \$55,845.

8. Assuming a 1.5% inflation factor FY 28 would be \$56,584 and FY 29 would be \$57,334.

**Judiciary**

9. HB 541 would add driving while under the influence of alcohol and a controlled substance as designated in Schedules I through V of Title 50, chapter 32, part 2, as an offense.

10. Section 61-8-1007, MCA, is amended to add the penalty for the new offense of imprisonment in the state prison.

11. This section of the 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

**Office of Public Defender (OPD)**

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).

**Fiscal Analysis Table**

<b>Department of Corrections</b>				
	<b>FY 2026 Difference</b>	<b>FY 2027 Difference</b>	<b>FY 2028 Difference</b>	<b>FY 2029 Difference</b>
<b><u>Fiscal Impact</u></b>				
<b><u>Expenditures</u></b>				
Operating Expenses	\$52,569	\$55,845	\$56,584	\$57,334
<b>TOTAL Expenditures</b>	<b>\$52,569</b>	<b>\$55,845</b>	<b>\$56,584</b>	<b>\$57,334</b>
<b><u>Funding of Expenditures</u></b>				
General Fund (01)	\$52,569	\$55,845	\$56,584	\$57,334
<b>TOTAL Funding of Expenditures</b>	<b>\$52,569</b>	<b>\$55,845</b>	<b>\$56,584</b>	<b>\$57,334</b>
<b><u>Revenues</u></b>				
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u></b>				
General Fund (01)	(\$52,569)	(\$55,845)	(\$56,584)	(\$57,334)

  
Sponsor's Initials

2-26-25  
Date

  
Budget Director's Initials

2/25/2025  
Date