



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: SB0019: Revise sentencing laws related to theft

Primary Sponsor: Barry Usher 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 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
Expenditures				
General Fund (01)	\$817,989	\$1,113,204	\$1,954,124	\$2,854,649
Revenues				
General Fund (01)	\$15,500	\$15,500	\$15,500	\$15,500
Net Impact	<u>(\$802,489)</u>	<u>(\$1,097,704)</u>	<u>(\$1,938,624)</u>	<u>(\$2,839,149)</u>
General Fund Balance				

Description of fiscal impact

SB 19 generally amends sections of Montana Code Annotated to remove distinctions between first and subsequent convictions and increases maximum penalties. The Office of Public Defender will incur costs for defense of accused, the Department of Corrections will incur costs for additional incarcerations and additional Probation and Parole caseload. The Montana Highway Patrol anticipates a slight increase in fine revenue. In addition, courts may face an increase in caseloads.

FISCAL ANALYSIS

Assumptions

Department of Justice

1. It is assumed that the number of tickets issued by the Montana Highway Patrol in FY 2024 will remain consistent in subsequent years, but fine revenue will increase. Fine revenue is split evenly between the state and the county in which a ticket was issued.

Department of Corrections

1. The Department of Corrections (DoC) assumes an effective date of January 1, 2026, on all changes proposed in this bill.
2. SB 19 increases the maximum penalty for 45-6-301, MCA, Theft to a prison term not to exceed ten (10) years, a fine not to exceed \$50,000, or both. From 2020 through 2024, there was an average of 575 annual convictions for this offense. The department assumes that sentence lengths will increase, resulting in an increase to the incarcerated population. This increase is estimated at 5 people in FY 2026, 10 people in FY 2027, 30 people in FY 2028, and 50 people in FY 2029. Additionally, the department assumes that this

- change will increase the number of people under the supervision of Probation and Parole. This increase is also estimated at 5 people in FY 2026, 10 people in FY 2027, 30 people in FY 2028, and 50 people in FY 2029.
3. SB 19 increases the maximum penalty for 45-6-309, MCA, Failure to Return Rented or Leased Personal Property to a prison term not to exceed ten (10) years, a fine not to exceed \$10,000, or both. From 2020 through 2024, there was an average of 1.75 convictions per year for this offense. The department assumes that sentence lengths will increase, resulting in an increase to the incarcerated population. This increase is estimated at 1 person in FY 2029. Additionally, the department assumes that this change will increase the number of people under the supervision of Probation and Parole. This increase is also estimated at 1 person in FY 2029.
 4. SB 19 increases the maximum penalty for 45-6-316, MCA, Issuing a Bad Check to a prison term not to exceed ten (10) years, a fine not to exceed \$50,000, or both. From 2020 to 2024, there was an average of 27.5 convictions for this offense per year. The department assumes that sentence lengths will increase, resulting in an increase to the incarcerated population. This increase is estimated at 1 person in FY 2026, 2 people in FY 2027, 3 people in FY 2028, and 4 people in FY 2029. Additionally, the department assumes that this change will increase the number of people under the supervision of Probation and Parole. This increase is also estimated at 1 person in FY 2026, 2 people in FY 2027, 3 people in FY 2028 and 4 people in FY 2029.
 5. SB 19 increases the maximum penalty for 45-6-317, MCA, Deceptive Practice to a prison term not to exceed ten (10) years, a fine not to exceed \$50,000, or both. From 2020 to 2024, there was an average of 33 convictions for this offense per year. The department assumes that sentence lengths will increase, resulting in an increase to the incarcerated population. This increase is estimated at 1 person in FY 2026, 2 people in FY 2027, 3 people in FY 2028, and 4 people in FY 2029. Additionally, the department assumes that this change will increase the number of people under the supervision of Probation and Parole. This increase is also estimated at 1 person in FY 2026, 2 people in FY 2027, 3 people in FY 2028 and 4 people in FY 2029.
 6. SB 19 increases the maximum penalty for 45-6-325, MCA, Forgery to a prison term not to exceed twenty (20) years, a fine not to exceed \$50,000, or both. From 2020 to 2024, there was an average of 52.75 convictions for this offense per year. The department assumes that sentence lengths will increase, resulting in an increase to the incarcerated population. This increase is estimated at 1 person in FY 2026, 2 people in FY 2027, 3 people in FY 2028, and 4 people in FY 2029. Additionally, the department assumes that this change will increase the number of people under the supervision of probation and parole. This increase is also estimated at 1 person in FY 2026, 2 people in FY 2027, 3 people in FY 2028 and 4 people in FY 2029.
 7. SB 19 would increase the maximum penalty for MCA 45-6-332, Theft of Identity to a prison term not to exceed ten (10) years, a fine not to exceed \$10,000, or both, if victim is not a minor. If victim is a minor, the maximum penalty increases to a prison term not to exceed twenty (20) years, a fine not to exceed \$20,000, or both. The department assumes that sentence lengths will increase, resulting in an increase to the incarcerated population. This increase is estimated at 1 person in FY 2026, 2 people in FY 2027, 3 people in FY 2028, and 4 people in FY 2029. Additionally, the department assumes that this change will increase the number of people under the supervision of Probation and Parole. This increase is also estimated at 1 person in FY 2026, 2 people in FY 2027, 3 people in FY 2028 and 4 people in FY 2029.
 8. The total impact of these changes on the prison population is estimated to be an additional 9 people in FY 2026, an additional 18 people in FY 2027, an additional 42 people in FY 2028, and an additional 66 people in FY 2029.
 9. DoC assumes a cost per offender of \$92 per day or \$33,580 per year in adult secure facilities, with a 1.5% inflationary multiplier in FY 2028 and FY 2029.
 10. The total impact of these changes on the population being supervised by Probation and Parole is estimated to be 18 offenders in FY 2026, 46 offenders in FY 2027, 84 offenders in FY 2028, and 122 offenders in FY 2029.
 11. The department estimates an incremental cost of \$62/person for each offender under the supervision of probation and parole. This cost relates to things such as assessments and drug testing materials.

12. The average annual salary of a probation and parole officer is \$53,206. For purposes of this fiscal note, the department is estimating a benefits expense of 17%.
13. Average probation and parole caseload is estimated to be 63 offenders. The department has estimated new FTE needs for probation and parole based on this average caseload per officer.

Office of Public Defender (OPD)

1. Adding back the possibility of jail for these first offense, misdemeanor property crimes will reverse 2017 legislative changes removing jail from these offenses; therefore, OPD assumes that it will experience an increase in the number of appointments to these misdemeanor cases equal to the reduction in such appointments between FY 2017, the last year in which jail time was a possible penalty for these offenses, and the yearly average appointments between FY 2020 and FY 2024.
2. Based upon the above assumptions and estimates, OPD assumes an increase of 776 new, misdemeanor property crime cases per year.
3. OPD weights the misdemeanor property offenses affected by this bill at 7 case weight hours per matter.
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 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 no fiscal impact for the bill's changes to felony sentences because OPD is already appointed to the felony versions of these property offenses and because the bill's changes to the maximum potential sentences for those felonies will not alter OPD existing case weight hours.
7. OPD assumes the total, annual impact of this bill on OPD would be \$529,620: 776 new offenses times 7 hours per offense times \$97.50 per hour.
8. An inflationary factor of 1.5% is applied to FY 2028 and 2029.

Judiciary

1. In section 1, 45-2-101, SB 19 would change the definition of "common scheme" to eliminate the \$1,500 threshold. Common schemes are felonies. By eliminating the threshold, there is potential for more cases that would go to District Courts.
2. Section 7, 45-6-332, (2) (b) would change the threshold of a felony charge from the value "exceeds \$1,500" to "of "\$1,500 or more" for theft of identity.
3. The number of district court cases may increase as a result of this legislation; however, the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact. The cumulative impact of such legislation may eventually require additional judicial resources because court dockets currently are full in many judicial districts 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	0.30	0.70	1.30	1.90
TOTAL Fiscal Impact	0.30	0.70	1.30	1.90
<u>Expenditures</u>				
Personal Services	\$18,675	\$43,576	\$82,141	\$121,853
Operating Expenses	\$269,694	\$540,008	\$1,334,419	\$2,187,169
TOTAL Expenditures	\$288,369	\$583,584	\$1,416,560	\$2,309,022
<u>Funding of Expenditures</u>				
General Fund (01)	\$288,369	\$583,584	\$1,416,560	\$2,309,022

Fiscal Note Request - As Introduced

(continued)

TOTAL Funding of Expenditures	<u>\$288,369</u>	<u>\$583,584</u>	<u>\$1,416,560</u>	<u>\$2,309,022</u>
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Revenues

Net Impact to Fund Balance (Revenue minus Funding of Expenditures)

General Fund (01)	<u>(\$288,369)</u>	<u>(\$583,584)</u>	<u>(\$1,416,560)</u>	<u>(\$2,309,022)</u>
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Department of Justice

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
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Fiscal Impact

Expenditures

Funding of Expenditures

Revenues

General Fund (01)	<u>\$15,500</u>	<u>\$15,500</u>	<u>\$15,500</u>	<u>\$15,500</u>
TOTAL Revenues	<u>\$15,500</u>	<u>\$15,500</u>	<u>\$15,500</u>	<u>\$15,500</u>

Net Impact to Fund Balance (Revenue minus Funding of Expenditures)

General Fund (01)	<u>\$15,500</u>	<u>\$15,500</u>	<u>\$15,500</u>	<u>\$15,500</u>
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Public Defender

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
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Fiscal Impact

Expenditures

Operating Expenses	<u>\$529,620</u>	<u>\$529,620</u>	<u>\$537,564</u>	<u>\$545,627</u>
TOTAL Expenditures	<u>\$529,620</u>	<u>\$529,620</u>	<u>\$537,564</u>	<u>\$545,627</u>

Funding of Expenditures

General Fund (01)	<u>\$529,620</u>	<u>\$529,620</u>	<u>\$537,564</u>	<u>\$545,627</u>
TOTAL Funding of Expenditures	<u>\$529,620</u>	<u>\$529,620</u>	<u>\$537,564</u>	<u>\$545,627</u>

Revenues

Net Impact to Fund Balance (Revenue minus Funding of Expenditures)

General Fund (01)	<u>(\$529,620)</u>	<u>(\$529,620)</u>	<u>(\$537,564)</u>	<u>(\$545,627)</u>
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STATEWIDE SUMMARY

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
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Fiscal Impact

FTE	<u>0.30</u>	<u>0.70</u>	<u>1.30</u>	<u>1.90</u>
TOTAL Fiscal Impact	<u>0.30</u>	<u>0.70</u>	<u>1.30</u>	<u>1.90</u>

Expenditures

Personal Services	<u>\$18,675</u>	<u>\$43,576</u>	<u>\$82,141</u>	<u>\$121,853</u>
Operating Expenses	<u>\$799,314</u>	<u>\$1,069,628</u>	<u>\$1,871,983</u>	<u>\$2,732,796</u>
TOTAL Expenditures	<u>\$817,989</u>	<u>\$1,113,204</u>	<u>\$1,954,124</u>	<u>\$2,854,649</u>

Funding of Expenditures

General Fund (01)	<u>\$817,989</u>	<u>\$1,113,204</u>	<u>\$1,954,124</u>	<u>\$2,854,649</u>
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Fiscal Note Request - As Introduced

(continued)

TOTAL Funding of Expenditures	<u>\$817,989</u>	<u>\$1,113,204</u>	<u>\$1,954,124</u>	<u>\$2,854,649</u>
Revenues				
General Fund (01)	\$15,500	\$15,500	\$15,500	\$15,500
TOTAL Revenues	<u>\$15,500</u>	<u>\$15,500</u>	<u>\$15,500</u>	<u>\$15,500</u>
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
General Fund (01)	<u>(\$802,489)</u>	<u>(\$1,097,704)</u>	<u>(\$1,938,624)</u>	<u>(\$2,839,149)</u>

Effect on County or Other Local Revenues or Expenditures

Counties would collect 50 percent of increased fine revenue from citations issued in that county.



 Sponsor's Initials

1/9/25

 Date



 Budget Director's Initials

1/7/2025

 Date