

NOTE: This is an earlier version of the fiscal note for HF615-0.

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Consolidated Fiscal Note

2023-2024 Legislative Session

HF615 - 0 - Fentanyl Weight Threshold and Penalty

Chief Author: **Dave Baker**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **3/12/2023 11:45:38 PM**
 Lead Agency: **Sentencing Guidelines Comm**
 Other Agencies:
 Corrections Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Corrections Dept						
General Fund	-	10	29	49	67	
State Total						
General Fund	-	10	29	49	67	
	Total	-	10	29	49	67
	Biennial Total			39		116

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Corrections Dept					
General Fund	-	.1	.3	.5	.7
	Total	-	.1	.3	.7

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 3/12/2023 11:45:38 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Corrections Dept						
General Fund	-	10	29	49	67	
Total	-	10	29	49	67	
	Biennial Total		39		116	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Corrections Dept						
General Fund	-	10	29	49	67	
Total	-	10	29	49	67	
	Biennial Total		39		116	
2 - Revenues, Transfers In*						
Corrections Dept						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total		-		-	-

Fiscal Note

2023-2024 Legislative Session

HF615 - 0 - Fentanyl Weight Threshold and Penalty

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 Date Completed: **3/12/2023 11:45:38 PM**
 Agency: **Sentencing Guidelines Comm**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 3/9/2023 11:12:06 AM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Total	-	-	-	-	-
Biennial Total			-		-
2 - Revenues, Transfers In*					
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

This bill amends adds a definition for fentanyl under Minn. Stat. § 152.01; and creates new fentanyl thresholds for controlled substance crimes under Minn. Stat. §§ 152.021 to 152.023, and § 152.025, equal to those that now exist for heroin. The new thresholds are:

First-Degree Sale 10 gr. or more;

First-Degree Possession 25 gr. or more;

Second-Degree Sale 3 gr. or more;

Second-Degree Possession 6 gr. or more;

Third-Degree Possession: 3 gr. or more; and

Fifth-Degree trace amount threshold for first-time gross misdemeanors Less than 0.05 gr.

The bill is effective August 1, 2023, and applies to crimes committed on or after that date.

Assumptions

It is generally assumed that due to the COVID-19 health pandemic, the cases sentenced in 2020 and 2021 are not a fair approximation of cases sentenced in the future. For this reason, 2019 case data are generally used to estimate impact. However, due to the reported increase in fentanyl-related drug overdose deaths in Minnesota in 2021, MSGC staff used 2021 Monitoring data for this fiscal note to better estimate its impact.

It is assumed that future sales and possessions of fentanyl will be similar to those controlled substance crimes sentenced in 2021 known to have involved fentanyl. According to 2021 MSGC Monitoring data, there were 3,912 controlled substance cases sentenced in Minnesota. According to Minnesota Offense Codes (MOCs) in that data, 119 cases were labeled as “synthetic narcotics.” MSGC staff reviewed the criminal complaints for those synthetic narcotics cases to determine which ones were labeled as fentanyl cases. MSGC staff found 19 felony-level fentanyl cases, six of which would be sentenced at a higher severity level under the provisions of this bill: 1 fifth-degree case and 1 second-degree case would move to first-degree; 1 fourth-degree case and 1 third-degree case would move to second-degree.

It is assumed that the cases moving to higher severity levels will be given the average imprisonment rate and length of sentence at the higher severity levels; however, it is also assumed that cases receiving mitigated dispositional departures (the Guidelines recommend prison but the defendant in the case gets probation) would continue at the same rate in the future.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Based on the above assumptions, it is estimated that there will be a need for an additional five prison beds. One bed would be needed in FY2024, two beds in FY2025, three beds in FY2026, four beds in FY2027, and five beds in FY2028 and every year after.

Local Fiscal Impact

Based on the above assumptions, it is estimated that there will be no local government fiscal impact.

References/Sources

2021 MSGC Monitoring Data.

Minn. Dept. of Health. (July 14, 2022). State Reports Record Drug Overdose Deaths in 2021 (Press Release). Retrieved March 3, 2023 at <https://www.health.state.mn.us/news/pressrel/2022/drugod071422.html>

Agency Contact:

Agency Fiscal Note Coordinator Signature: Jill Payne

Date: 3/3/2023 10:27:30 AM

Phone: 651-757-1725

Email: jill.payne@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF615 - 0 - Fentanyl Weight Threshold and Penalty

Chief Author: **Dave Baker**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **3/12/2023 11:45:38 PM**
 Agency: **Corrections Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
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Full Time Equivalent Positions (FTE)	Biennium			Biennium	
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General Fund	-	.1	.3	.5	.7
Total	-	.1	.3	.5	.7

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 3/12/2023 11:43:45 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

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Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	10	29	49	67	
Total		-	10	29	49	67
Biennial Total				39		116
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	10	29	49	67	
Total		-	10	29	49	67
Biennial Total				39		116
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

H.F. 615 provides the same weight threshold and penalty for fentanyl as is provided for heroin.

Assumptions

The Department of Corrections assumes:

- Prison bed costs are based on a marginal cost per diem of \$42.50 for FY2024, \$48.55 for FY2025, \$50.67 for FY2026 and \$50.58 for FY2027 and each subsequent year. This includes marginal costs for all facility, private and public bed rental, health care and support costs.
- The annual cost is estimated by multiplying the number of prison beds needed by the subsequent annual per diem. Unless otherwise noted, prison beds are phased in on a quarterly basis.
- Prison bed FTE impact for the increase in the offender population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary per FTE is \$72,000 per year including benefits.

The Minnesota Sentencing Guidelines Commission assumes:

- That future sales and possessions of fentanyl will be similar to those controlled substance crimes sentenced in 2021 known to have involved fentanyl.

Expenditure and/or Revenue Formula

Cost of Prison Beds

Fiscal Year	2024	2025	2026	2027
Number of Prison Beds	1	2	3	4
Cost of Prison Beds (in 000s)	10	29	49	67
FTE	0.1	0.3	0.5	0.7

Long-Term Fiscal Considerations

The commission estimates that there will be a need for an additional five prison beds. One bed will be needed in FY 2024, two beds in FY 2025, three beds in FY 2026, four beds in FY 2027, and five beds in FY 2028 and every year thereafter.

Local Fiscal Impact

The Department does not expect local units of governments to incur costs as a result of this bill.

References/Sources

Department of Corrections staff
Minnesota Sentencing Guidelines Commission

Agency Contact:

Agency Fiscal Note Coordinator Signature: Kwesi Pasley

Date: 3/10/2023 5:42:50 PM

Phone: 651-259-3667

Email: kwesi.pasley@state.mn.us