

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

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M E M O R A N D U M

TO: Jon Bennion, Assistant Attorney General
Montana Department of Justice

FROM: Amy Sassano, Deputy Director
Office of Budget and Program Planning 

RE: Fiscal note for initiative "Ballot Issue #4"

DATE: August 8, 2019

In accordance with section 13-27-312, MCA, we are submitting the attached fiscal note for Ballot Issue #4.

Please contact Amy Sassano if you have questions regarding the fiscal note.

c: ✓ Dana Corson, Director
Elections & Voter Services
Secretary of State



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note for 2020 Initiative

Bill #	Ballot Issue #4
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Title:	Enact Vehicular Manslaughter Statutes
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- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2021 Difference</u>	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
Expenditures:					
General Fund	\$5,600	\$5,600	\$46,340	\$88,213	\$131,960
Revenue:					
General Fund	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000
Net Impact-General Fund Balance	<u>\$19,400</u>	<u>\$19,400</u>	<u>(\$21,340)</u>	<u>(\$63,213)</u>	<u>(\$106,960)</u>

Description of fiscal impact: Ballot Issue #4 adds two new crimes under Title 45, Ch. 5, to include “Vehicular Manslaughter,” to cover those situations in which a person drives a vehicle recklessly, carelessly, or with depraved indifference or gross negligence likely to cause death or great bodily harm and such operation causes the death of another or an unborn child by injury to the mother. Aggravated Vehicular Manslaughter would be punishable by a prison term up to 20 years, a \$50,000 fine or both, and suspension of a driver’s license for 1 year after release from prison. In addition, a person convicted of vehicular manslaughter could be ordered to pay child support to the minor children of the deceased person.

For purposes of this ballot initiative, the cost of one case per fiscal year is shown. At this time, the state does not have data available to determine how many of these cases could occur in a fiscal year.

FISCAL ANALYSIS

Assumptions:

Department of Corrections

1. If this ballot initiative were to pass, it would create a crime of Aggravated Vehicular Manslaughter for which persons could be sentenced to prison for up to 20 years. As a probationary sentence to follow incarceration is also a possibility, the ballot initiative could impact the Probation & Parole Division.
2. The Department of Corrections is unable to determine how many new cases would be prosecuted under the proposed initiative should it become a law.
3. If a person is convicted of a felony under this language, the cost of incarceration is \$39,971 per year per male inmate and \$38,675 per year per female inmate.

4. If a person were to be sentenced to community supervision under this language the cost would be \$2,089 per year per male/female.
5. For the purpose of this initiative, the Department of Corrections assumes that there will be one case per year.
 - a. The law will go into effect July 1, 2020.
 - b. The defendant will be sentenced to the maximum 20 years.
 - c. It will take up to 18 months from arrest to incarceration. Therefore, FY 2021 and FY 2022 will not reflect cost for incarceration. FY 2023 will reflect a full year of incarceration. Each following year will add one-year full year cost for an additional incarceration.
 - d. The cost of incarceration will be at the male rate of \$39,971 per year.
 - e. The duration of incarceration will be for 5 years before parole can be offered. For this fiscal note there will be no possibility of parole until after FY 2027. This estimate does not take into factor any impacts to Probation & Parole.
6. A 1.5% per year inflation factor is applied.

Office of Public Defender

7. The severity of the charge for careless or reckless operation of a vehicle resulting in the death of a human being may increase workload. The number of new cases this initiative would bring to the Office of Public Defender (OPD) at this time is undeterminable. It may require additional OPD resources in the future.
8. The Office of Public Defender, for purpose of this fiscal note, has estimated the cost of one case per year.
 - a. The current case weight designated, or a homicide case is 100 hours of attorney time.
 - b. The current attorney rate is \$56.00 per hour.
 - c. An approximate cost for one case would be \$5,600.
9. A 1.5% per year inflation factor is applied

Department of Justice

10. In 2018, Montana Highway Patrol (MHP) wrote 5 vehicular manslaughter citations. Those citations were only issued to intoxicated drivers.
11. MHP assumes that the full fine amount would be received from the person charged.
12. Half of the fines received go to the county in which the citation was issued, and half goes to the state general fund.
13. For the purpose of this initiative, MHP assumes that one case will occur in each fiscal year. MHP assumes an increase in fine revenue of \$25,000. ($\$50,000 * 1 \text{ case} = \$50,000$) ($\$50,000 / 2 = \$25,000$)

Department of Public Health and Human Services

14. There would be no incremental cost to the department if child support were ordered for an individual convicted under the new statute.


	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<u>Fiscal Impact:</u>					
FTE	0.00	0.00	0.00	0.00	0.00
<u>Expenditures:</u>					
Personal Services	\$0	\$0	\$0	\$0	\$0
Operating Expenses	\$5,600	\$5,684	\$46,340	\$88,213	\$131,960
TOTAL Expenditures	\$5,600	\$5,684	\$46,340	\$88,213	\$131,960
<u>Funding of Expenditures:</u>					
General Fund (01)	\$5,600	\$5,684	\$46,340	\$88,213	\$131,960
TOTAL Funding of Exp.	\$5,600	\$5,684	\$46,340	\$88,213	\$131,960
<u>Revenues:</u>					
General Fund (01)	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000
Counties	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000
TOTAL Revenues	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>					
General Fund (01)	\$19,400	\$19,316	(\$21,340)	(\$63,213)	(\$106,960)

Effect on County or Other Local Revenues or Expenditures:

1. If individuals were convicted of Vehicular Manslaughter and were sentenced to up to one year of incarceration, local county jails would incur the incremental cost of housing the inmates.
2. If individuals were incarcerated for either crime, during the time leading up to the trial, the county jail would incur the cost of housing the accused.
3. The cost of prosecuting individuals for either Vehicular Manslaughter or Aggravated Vehicular Manslaughter would be incurred by the local county attorney.
4. In accordance with assumption 13, if one individual per year were convicted the county in which the offense occurred would receive \$25,000 of fine revenue if the maximum fine were imposed.

Long-Term Impacts:

1. If the average length of stay in incarceration is 5 years for Aggravated Vehicular Manslaughter, the ongoing cost would be just over \$200,000 per year by FY 2027 (assuming 1 incarceration per year).
2. If the number of incarcerations per year were greater than one or the length of stay exceeds 5 years, the costs to the state would increase accordingly.



 Budget Director's Signature

8/8/19

 Date