1	House BILL NO. 244
2	INTRODUCED BY Menahan
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON MUST BE DETAINED WHILE
5	AWAITING IMPOSITION OR EXECUTION OF A SENTENCE FOR OR DURING THE APPEAL OF A SENTENCE
6	OF ANY AMOUNT OF INCARCERATION FOR A CRIME INVOLVING SIGNIFICANT INJURY OR THE THREAT
7	OF SIGNIFICANT INJURY TO ONE OR MORE OTHER PERSONS; AND AMENDING SECTION 46-9-107,
8	MCA."
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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12	Section 1. Section 46-9-107, MCA, is amended to read:
13	"46-9-107. Release or detention pending imposition or execution of sentence or pending appeal
14	- or bail revocation - sentencing hearing. (1) A Except as provided in subsection (2):
15	(a) a person intending to appeal from a judgment imposing a fine only or from any judgment
16	rendered by a justice's court or city court must be admitted to bail; and. The
17	(b) the court shall order the detention of a defendant found guilty of an offense who is awaiting
18	imposition or execution of sentence or a bail revocation hearing or who has filed an appeal unless the court
19	finds that, if released, the defendant is not likely to flee or pose a danger to the safety of any person or the
20	community.
21	(2) A defendant found guilty of one of the following offenses or found guilty of solicitation of or
22	attempt or conspiracy to commit one of the following offenses must be detained in jail or prison while
23	awaiting imposition or execution of sentence and during the course of an appeal if sentenced to any amount
24	of incarceration:
25	(a) deliberate homicide, 45-5-102;
26	(b) mitigated deliberate homicide, 45-5-103;
27	(c) aggravated assault or felony assault, 45-5-202;
28	(d) intimidation, 45-5-203;
29	(e) a second or subsequent domestic abuse offense, 45-5-206;
30	(f) criminal endangerment, 45-5-207;



1	(g) stalking, 45-5-220;
2	(h) malicious intimidation or harassment, 45-5-221;
3	(i) kidnapping, 45-5-302;
4	(j) aggravated kidnapping, 45-5-303;
5	(k) custodial interference, 45-5-304;
6	(I) robbery, 45-5-401;
7	(m) a sexual assault punishable under 45-5-502(3) or a second or subsequent sexual assault
8	punishable under 45-5-502(2);
9	(n) sexual intercourse without consent, 45-5-503;
10	(o) a third or subsequent indecent exposure offense, 45-5-504;
11	(p) deviate sexual conduct with a person who did not consent to the conduct constituting the
12	offense, 45-5-505;
13	(q) incest with a person who did not consent to the conduct constituting the offense, 45-5-507;
14	(r) aggravated promotion of prostitution, 45-5-603;
15	(s) sexual abuse of children under 45-5-625 (1)(a) or (1)(c);
16	(t) ritual abuse of a minor, 45-5-627;
17	(u) arson, 45-6-103;
18	(v) aggravated burglary, 45-6-204;
19	(w) tampering with witnesses and informants, 45-7-206;
20	(x) escape, 45-7-306;
21	(y) criminal sale of dangerous drugs to a minor, 45-9-101."
22	-FND-

# STATE OF MONTANA - FISCAL NOTE

## Fiscal Note for HB0244, as introduced

## DESCRIPTION OF PROPOSED LEGISLATION:

A bill providing that a person must be detained while awaiting imposition or execution of a sentence for or during the appeal of a sentence of any amount of incarceration for a crime involving significant injury or the threat of significant injury to one or more other persons.

## ASSUMPTIONS:

- 1. Offenders placed in county jails while awaiting imposition of sentencing are the responsibility of the county as defined in 7-32-2242, MCA.
- 2. The Department of Corrections and Human Services (DCHS) is responsible for jail placement of offenders awaiting execution of sentencing, on parole, or in an inmate status.
- 3. DCHS has no access to data on the number of offenders or number of additional days which those offenders would be detained in jail or prison under the provisions of this bill.

## FISCAL IMPACT:

Unknown

#### TECHNICAL NOTES:

The language in this bill as it applies to persons under appears to be in conflict with 46-20-204, MCA.

DAVE LEWIS, BUDGET DIRECTOR DATE

Office of Budget and Program Planning

WILLIAM MENAHAN, PRIMARY SPONSOR DATE

Fiscal Note for HB0244, as introduced UR 244