

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;**

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 appeal appears to be in conflict with 46-20-204, MCA.

Dave Lewis 1-22-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Menahan

WILLIAM MENAHAN, PRIMARY SPONSOR DATE

Fiscal Note for HB0244, as introduced

HB 244