

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : Medium

Committee: LJ

Agency Name: Judicial Branch

Status : One-Time

FTE Impact : Y

Program Name:

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|------------------------------------|--------------|---------------|-----------------|
| Program Eliminations/Modifications | \$0 | \$0 | \$0 |

Description of Option: Close Courts One Day Per Week

Criteria Name: Other

Summary of Issue

One cost saving strategy that has been implemented by other states is closing courts one day per week. In Montana district courts are funded by state general fund and it might be possible to reduce general fund expenditures by closing these courts one day per week. However, because the district court budgets are comprised largely of personal services costs it is likely that employees would have to be furloughed on this day in order to create significant savings.

Further Work Required

Any furlough of employees would need analysis of legal implications including implications on pensions, labor agreements, and other similar issues. Additionally, because district court judges are elected officials it is unlikely that they could be furloughed. There are also complexities created because the Clerk of Court is a county employee and counties provide physical space for court rooms. This is also likely to create delays in court proceeds and backlogs within the court system.

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : Low

Committee: LJ

Agency Name: Judicial Branch

Status : On-Going

FTE Impact : N

Program Name: District Court Operations

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|------------------------------------|--------------|---------------|-----------------|
| Program Eliminations/Modifications | \$750,000 | (\$750,000) | (\$50,000) |

Description of Option: Juvenile Placement/Juvenile Delinquency Intervention Program

Criteria Name: Not subject to regular review

Summary of Issue

Currently, general fund for juvenile parole and probation placements is appropriated to the Department of Corrections. Eleven percent of the funds are used by Corrections for juvenile parole placements and \$1 million is placed in a cost containment pool. The balance of the funds are allocated among judicial districts for juvenile probation placements. Funds that are allocated to judicial districts but are unexpended at the end of the fiscal year are transferred to the Juvenile Delinquency Intervention Program account in the state special revenue fund to be used for youth prevention and intervention programs and in some instances placement. This fund is administered by the Judicial Branch and statutorily appropriated. Funds that remain in the state special revenue fund and are not expended at the end of two additional years are transferred back to the general fund. When last reviewed about \$1 million per year of the juvenile placement funds was being transferred to the state special revenue fund at the end of each year. A reduction of about \$300,000 was included in the spending reductions ordered by the Governor under 17-7-140, MCA.

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : Low

Committee: LJ

Agency Name: Department Of Justice

Status : On-Going

FTE Impact : N

Program Name:

Mode : Research

MCA : 30-14-143

| Option | General Fund | State Special | Federal Special |
|------------------------|--------------|---------------|-----------------|
| Fund Balance Transfers | \$1,000,000 | (\$1,000,000) | \$0 |

Description of Option: Consumer Settlement Proceeds

Criteria Name: Other

Summary of Issue

Current statute provides that excess fines, costs, and fees from consumer settlement proceeds (proceeds paid to the state to settle litigation in consumer protection cases) be transferred to the general fund. But, current statute does not clearly state what is to be considered fines, costs, or fees, how the amount of "excess" is to be determined, and does not specify the timing of the transfer to the general fund. Legislation (SB 158) considered by the 2009 Legislature to revise this statute was not adopted.

Legislation Required

Statute would need to be amended temporarily to allow the transfer.

How the Fund Balance Would be Impacted

General fund balance would increase as the result of transfer of funds from the state special revenue account. The state special revenue account would be decreased.

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : Medium

Committee: LJ

Agency Name: Office Of The Public Defender

Status : On-Going

FTE Impact : Y

Program Name:

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|--------|--------------|---------------|-----------------|
| Other | \$0 | \$0 | \$0 |

Description of Option: Eliminate jail time for selected misdemeanor offenses

Criteria Name: Other

Summary of Issue

The potential for jail time (incarceration) drives the need for a public defender to represent some individual charged with misdemeanor crimes. Removal of the statutory provisions providing for the possibility of incarceration for some misdemeanour crimes may result in reduced costs to the state for public defender services. Additionally, some local government ordinances include jail time as a potential penalty. Restricting local government from including jail time as a penalty for violation of local ordinances or providing that the local government pay for public defender services in these cases may reduce state general fund expenditures.

Further work required

At its June 2010 meeting the Legislative Finance Committee passed a motion requesting two bill drafts: 1) removing jail time for certain misdemeanor offenses; and, 2) providing that local government pay the costs of public defense services when jail time associated with a local government ordinance drives the need for the public defender. The committee did not determine the specific content of either bill draft request. Further work is necessary to determine the content of this proposed legislation.

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : Medium

Committee: LJ

Agency Name: Office Of The Public Defender

Status : On-Going

FTE Impact : N

Program Name:

Mode : Develop

MCA :

| Option | General Fund | State Special | Federal Special |
|------------------------------------|--------------|---------------|-----------------|
| Program Eliminations/Modifications | \$0 | \$0 | \$0 |

Description of Option: Eligibility for Public Defender Services

Criteria Name: Other

Summary of Issue

Currently individuals that are determined indigent due to having household income at or below 133 percent of the federal poverty level or because hiring a defense attorney would present a financial hardship are eligible to have a public defender represent them in court (at state expense).

How the Fund Balance Would be Impacted

Changing the criteria for eligibility so that fewer individuals are eligible for this publicly funded service could reduce costs to the general fund.

Further Work Required

This topic is discussed more completely in reports delivered to the Legislative Finance Committee in March and June, 2010.

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : Medium

Committee: LJ

Agency Name: Office Of The Public Defender

Status : On-Going

FTE Impact : N

Program Name:

Mode : Develop

MCA : 47-1-104

| Option | General Fund | State Special | Federal Special |
|------------------------------------|--------------|---------------|-----------------|
| Program Eliminations/Modifications | \$0 | \$0 | \$0 |

Description of Option: Public Defender - Reduce/Eliminate Provision of Services that are Optional

Criteria Name: Other

Summary of Issue

The Office of Public Defender provides public defense services to indigent individuals. While the provision of a public defender is a constitutional requirement in most cases, statute also provides for a public defender in some situations that may be outside the constitutional requirement.

How the Fund Balance Would be Impacted

Revising statutes to eliminate the provision of a public defender in some situations may reduce the caseload of the public defender system and thus general fund costs. This option is discussed in reports delivered to the Legislative Finance Committee in March and June, 2010.

Further Work Required

A legal analysis clarifying whether or not there is a constitutional right to a public defender in some cases should be completed prior to or in conjunction with the drafting of legislation on this issue.

Legislation Required

Legislation to change current statute to eliminate required support would be required.

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : High

Committee: LJ

Agency Name: Department Of Corrections

Status : One-Time

FTE Impact : N

Program Name:

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|--------|--------------|---------------|-----------------|
| Other | \$0 | \$0 | \$0 |

Description of Option: Corrections - Early Release of Inmates

Criteria Name: Other

Summary of Issue

One strategy used by Montana in 2003 and being used by other states to reduce expenditures is the early release of inmates from prison. When Montana used this strategy in 2003 there were a number of offenders that were committed to the Department of Corrections in prison that were released. Since that time the department has revised processes and now 70 percent of the offenders under a DOC commitment are diverted from prison to other alternatives.

Further Work Required

Criteria would need to be developed to determine which offenders were potential candidates to be released from prison early. It is likely that statutory changes would be needed and the role of the Board of Pardons and Parole redefined in this situation. Also, post release transition and supervision would be needed to prevent offenders from returning to prison.

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : Medium

Committee: LJ

Agency Name: Department Of Corrections

Status : On-Going

FTE Impact : N

Program Name:

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|--------|--------------|---------------|-----------------|
| Other | \$0 | \$0 | \$0 |

Description of Option: Corrections - Increase Diversions

Criteria Name: Other

Summary of Issue

One strategy to decrease correctional costs is to divert offenders from the correctional system. This strategy typically begins with diversion of offenders to treatment programs (often substance abuse). Montana has several alternative and treatment programs for offenders.

Montana currently has diversion programs including substance abuse treatment programs, methamphetamine treatment programs, felony driving under the influence treatment programs, and assessment and sanction centers. The number of beds available within these facilities could be increased. Additionally, creation of new programs for more difficult offenders who have failed in existing programs could increase the number of offenders. Also, diversion of offenders earlier, such as at the misdemeanor level, may be desirable. Misdemeanor diversion programs could include things such as treatment courts, a program like South Dakota's 24/7 sobriety program or use of misdemeanor probation officers to monitor offender compliance with court requirements.

How the Fund Balance Would be Impacted

Diverting offenders from prison and/or the correctional system would decrease general fund expenditures

Further Work Required

Further research would be required to determine the most cost effective diversion strategies in light of Montana's current service and population mix.

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : High

Committee: LJ

Agency Name: Department Of Corrections

Status : On-Going

FTE Impact : N

Program Name:

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|--------|--------------|---------------|-----------------|
| Other | \$0 | \$0 | \$0 |

Description of Option: Corrections - Change Sentencing Provisions

Criteria Name: Other

Summary of Issue
 Revise statutes related to sentences for various criminal offenses. Reduction in the length of sentences would lead to shorter lengths of incarceration or perhaps the elimination of incarceration as punishment for some crimes.

How the Fund Balance Would be Impacted
 If fewer offenders were sentenced for shorter periods of time general fund expenses would decrease.

Further Work Required
 Given the number of criminal offenses and need for careful consideration to avoid unintended consequences, identifying desirable changes to sentencing statutes that would decrease costs would best be accomplished through an interim study.

Legislative Fiscal Division

Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : High

Committee: LJ

Agency Name: Department Of Corrections

Status : One-Time

FTE Impact : Y

Program Name:

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|--------|--------------|---------------|-----------------|
| Other | \$17,300,000 | \$0 | \$0 |

Description of Option: Corrections - 10 Percent Reduction

Criteria Name: Other

Summary of Issue

A 10 percent reduction in funding for the Department of Corrections equates to about \$17.3 million a year. The amount of savings would equate to any one of the following: 1) elimination of almost all community based treatment services for adult offenders and the operation of the Missoula Assessment and Sanction Center; 2) elimination of administrative functions of the department including the costs of outside medical care for inmates; and 3) incarceration of 136 offenders at Montana State Prison for a 46 month average length of stay at a cost of \$91.97 perday (based upon FY 2008 average length of stay and cost). To achieve this savings in one year, the number of inmates would need to be reduced by four times that number (544) for the entire year.

How the Fund Balance Would be Impacted

A reduction in expenditures would increase the fund balance.

Legislative Fiscal Division

Legislative Budget Options

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Time : Medium

Committee: LJ

Agency Name: Department Of Corrections

Status : On-Going

FTE Impact : Y

Program Name:

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|--------|--------------|---------------|-----------------|
| Other | \$0 | \$0 | \$0 |

Description of Option: Corrections - Revocations, Recidivism

Criteria Name: Other

Summary of Issue

One strategy to reduce incarceration costs is to reduce offender revocations or recidivism. Montana has implemented the Sanction Treatment Assessment Revocation and Transition (START) program to divert offenders from returning to prison. Since inception of this program 73 percent of the offenders subject to the program were returned to the community and the balance of 27 percent returned to prison. Since most who return to prison do so within the first two to three years of release more intensive supervision during this time may reduce recidivism. Additionally, review of the reason offenders are returning to prison may reveal changes that would be desirable and reduce revocations. Reduction of revocations and recidivism would increase the general fund balance if expenditures are decreased.

Further Work Required

Additional research is needed to identify potential supervision strategies beyond those already utilized or changes in conditions of release that might reduce revocation and recidivism.

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Legislative Budget Options

Section Name: Judicial Branch, Law Enforcement, Justice

Time : Medium

Committee: LJ

Agency Name: Department Of Corrections

Status : On-Going

FTE Impact : N

Program Name:

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|--------|--------------|---------------|-----------------|
| Other | \$0 | \$0 | \$0 |

Description of Option: Provider rate reductions - Corrections

Criteria Name: Other

Summary of Issue

Correctional system costs could be reduced by reducing the rates paid to contractors. The department budget includes about \$124 million of funding for the 2011 biennium to support room and board payments to contracted service providers (including regional and private prisons, prerelease centers, treatment programs, etc). A one percent provider rate reduction equates to savings (an increase in the general fund balance) of about \$1.2 million for the biennium. It is likely that provider rate reductions would impact the services provided. Additionally, statutory changes to provisions (53-30-507(3), MCA) governing rates for regional prisons may be needed to implement this reduction.

Further Work Required

Research is needed to determine the potential impacts of this proposal on services, offender success (recidivism), and providers (many of which are nonprofit corporations).

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Agency Name: Department Of Corrections

Status : On-Going

FTE Impact : N

Program Name:

Mode : Research

MCA :

| Option | General Fund | State Special | Federal Special |
|--------|--------------|---------------|-----------------|
| Other | \$0 | \$0 | \$0 |

Description of Option: Reduce length of stay in various programs - Corrections

Criteria Name: Other

Summary of Issue

The costs per offender might be decreased by shortening the length of stay in various programs. For example, the length of stay in prerelease is generally six months, in methamphetamine treatment nine months followed by six months in prerelease, and in the felony DUI treatment program six months. Because providers are paid a per diem rate it might be possible to reduce costs by reducing these lengths of stay.

Further Work Required

Research is needed to determine the potential impact of shortened lengths of stay in programs upon program and offender success. Additionally, statutory changes to sentencing provision may be needed.