



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 741

PRINTERS NO. 1262

PRIME SPONSOR: Stephens

### COST / (SAVINGS)

FUND	FY 2016/17	FY 2017/18
General Fund	\$0	See "Fiscal Impact" below.
County Funds	\$0	See "Fiscal Impact" below.

#### SUMMARY:

House Bill 741 amends the Crimes Code and the Judicial Code concerning mandatory minimum sentencing and drug trafficking penalties. It would take effect in 60 days.

#### ANALYSIS:

A United States Supreme Court decision rendered various mandatory minimum sentencing provisions in Pennsylvania law unconstitutional. House Bill 741 amends the Crimes Code and the Judicial Code to fix these defects and reinstate mandatory minimum sentencing for trafficking drugs to minors, trafficking drugs in a drug-free school zone, drug trafficking, offenses committed with firearms, certain drug offenses committed with firearms, offenses committed on public transportation, offenses against elderly persons, offenses against infant persons, and offenses committed while impersonating a law enforcement officer.

House Bill 741 also removes the mandatory sentence for distribution of certain controlled substances, raises the threshold amount of drugs required to trigger the mandatory sentence, reduces the length of the minimum mandatory sentence for others, and increases the length of the minimum mandatory sentence for certain repeat offenders.

#### FISCAL IMPACT:

The fiscal impact for this legislation is estimated using data provided by the Pennsylvania Commission on Sentencing (PCS) and the Department of Corrections (DOC).

The impact of reinstating the mandatory minimum for trafficking drugs to minors is expected to be minimal. The average number of cases is low, at less than 10 per year, and the average minimum sentence is expected to increase only slightly.

The reinstatement of a mandatory minimum for trafficking drugs in a drug-free school zone, as well as the changes that both increase and decrease certain drug minimums and change the amounts of drugs that trigger these minimums are complex and could produce a range of cost estimates. The PCS and DOC data attempt to account for these variables. Increased DOC costs

will be the result of two primary factors: increased average minimum sentences for offenders who would be sentenced to a DOC facility without the reinstatement of the mandatory minimums; and additional costs for new inmates who would not have been sentenced to DOC without the reinstatement of the mandatory minimums, but would have instead gone to county prisons. The PCS estimates the combined impact of these changes will result in approximately 1,285 additional filled beds in the DOC annually.

The DOC estimates a total impact of up to \$19 million in the first year after enactment, with a likely impact of \$47.3 million in approximately five fiscal years after enactment, based on the 1,285 additional beds forecast by PCS. However, the DOC also notes a potential maximum ceiling impact of \$85 million in a worst-case scenario estimate. The 2016-17 DOC enacted budget is \$2.39 billion.

As mentioned above, a portion of these additional costs represent a shift of inmates from county prisons to the DOC. Based on an average annual cost of \$28,581 per offender in county prisons, and a shift of approximately 350 prisoners, this could save county governments approximately \$10 million per year.

Concerning mandatory minimum sentencing for offenses committed with firearms and certain drug offenses committed with firearms, in most of these cases, the sentences imposed are already equal to or greater than the five-year mandatory minimum in this legislation. Therefore, reinstatement of this mandatory minimum will have little impact.

The changes to sentencing for offenses committed on public transportation, offenses against elderly persons, and offenses committed while impersonating a law enforcement officer are not expected to produce a substantial impact because the number of cases annually is so small.

Concerning offenses committed against infant persons, the number of offenders sentenced is an average of 85 per year based on the three most recent years of data. However, in most of these cases, the sentences imposed are already equal to or greater than the five-year mandatory minimum. Therefore, reinstatement of this mandatory minimum will have little impact.

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**DATE:** April 5, 2017

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*